

December 29, 2025

Sent via email to: objections-pnw-colville@usda.gov

To: Objection Reviewing Officer

Objection Reviewing Officer, Joshua White,
Forest Supervisor, Colville National Forest Supervisor's Office,
Attn: Objections, 765 South Main, Colville, WA 99114.

1. Objector's Name and Address:

2.

Lead Objector Mike Garrity

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Paul Sieracki

77 E Lincoln Ave

Priest River, ID 83856

2. Name of the Proposed Project

The SXWUYTN-KANIKSU CONNEC-

TIONS 'TRAIL' PROJECT area extends from the

CNF boundary four miles north of Newport

through Exposure, Skookum, Cee Cee Ah, Cusick and Middle Creek watersheds. The Pend Oreille River and the Selkirk Divide/Idaho Panhandle National Forest bound the project on the west and east, respectively.

‘TRAIL’ PROJECT

3. Location of Project, Name and Title of Responsible Official

The Responsible Official is Carin Vadala, District Ranger, Newport-Sullivan Lake Ranger District, Colville National Forest.

The project is in the Newport and Sullivan Lake Ranger Districts. The Sxwuytn-Kaniksu Connections ‘Trail’ Project (Trail Project) area extends from the CNF boundary four miles north of Newport through Exposure, Skookum, Cee Cee Ah, Cusick and Middle Creek watersheds. The Pend Oreille River and the Selkirk Divide/Idaho Panhandle National Forest bound the project on the west and east, respectively. The project area extends from the CNF boundary four miles north of Newport through Exposure, Skookum, Cee Cee Ah, Cusick and Middle Creek watersheds. The Pend Oreille River and the Selkirk Divide/Idaho Panhandle National Forest bound the project on the west and east, respectively.

4. Connection between previous comments and those raised in the Objection:

Alliance fully participated during the public involvement process, including submitting comments on November 5, 2020. Paul Sieracki, Alliance also submitted comments

on November 4, 2020. We also objected to the first the first SXWUYTN-KANIKSU CONNECTIONS 'TRAIL' PROJECT on January 30, 2021.

The SXWUYTN-KANIKSU CONNECTIONS 'TRAIL' PROJECT Objection

Signed this 29th day of December, 2025 for
Objectors

/s/

Michael Garrity

Pursuant to 36 CFR Part 218, the Alliance for the Wild Rockies (AWR) (lead objector), and Paul Sieracki file this Objection to the Environmental Assessment (EA) and draft Decision Notice (DN) for the SXWUYTN-KANIKSU CONNECTIONS 'TRAIL' PROJECT. The legal notice was published on Nov. 12, 2025.

We incorporate our previous comments and objections by reference.

Please find attached our opening brief for the Trail project motion for summary judgement.

New Objection Topics Based on New Information or Changed Circumstances

Pursuant to 36 C.F.R. § 218.8, objection issues must generally be based on timely, specific written comments submitted during the designated public comment opportunities; however, the rule

expressly permits introduction of issues that arise from new information or changed circumstances that were not reasonably foreseeable during the original comment period. The revised Decision Notice/FONSI for the Trail Project (Trail 2) materially reassigns and adds logging units compared to the prior DN that was withdrawn by Court order, and those material changes constitute new information and changed circumstances for purposes of the objection process. The last decision was invalidated for lack of specificity, and that “now that USFS has been more specific,” it has highlighted the flaws in their decision and EA. Accordingly, the following topics are presented as new objection issues that were not and could not reasonably have been raised during the earlier comment period because they arise directly from the revised unit assignments, updated GIS data, and potentially significant contract provisions from the intent to re-issue the Mystic-Witch Timber Sale that impact the explicitness of the new logging unit maps (Reference: 36 C.F.R. § 218.8 (Filing an objection)). The EA now lacks quantitative consistency with the actual logging unit boundary areas.

These material changes, compelled by the court’s directive to delineate explicit unit boundaries, underscore that the revised logging units were introduced without any subsequent public comment period, thereby creating a procedural deficiency that must be recognized as a new objection issue.

The revised Decision Notice/FONSI (referred to as Trail 2) introduces logging units that were not subject to any public comment opportunity following the court’s order requiring explicit mapping of unit boundaries. This omission is procedurally significant because “Prior to issuing a final directive subject to this

part, the Forest Service shall: (1) Provide notice to the public of a proposed directive or interim directive and provide an opportunity to submit comments during a comment period of not less than 30 days in accordance with the requirements of this section; and, (2) Review, consider and respond to timely comments received” (36 C.F.R. § 216.3, Notice and an opportunity for public comment). By failing to provide a renewed comment period after materially altering the unit boundaries, the agency deprived stakeholders of their statutory right to field review and respond to the revised project scope in violation of NEPA. This procedural deficiency constitutes a changed circumstance under 36 C.F.R. § 218.8, as the public could not reasonably have anticipated or addressed the impacts of the newly defined units during the original comment period. The absence of a comment opportunity following the judicial directive undermines both the transparency and defensibility of the decision-making process, warranting recognition as a new objection issue. (Reference: [36 C.F.R. § 216.3](#)).

Reference to Comments: This falls under the new information category as there was no comment period offered for the explicit unit mapping order in violation of NEPA, NFMA and the APA.

Relief Requested

In light of the foregoing procedural deficiencies, Objectors respectfully request that the Reviewing Officer sustain this objection issue and direct the Responsible Official to remedy the lack of public participation. Specifically, Objector seeks the following relief:

- Vacatur of the Revised Decision Notice/FONSI insofar as it introduces logging units and LOS delineations that were not subject to public comment following the court's order requiring explicit boundary delineation.
- Re-initiation of the public comment process pursuant to 36 C.F.R. § 216.3, which mandates that "Prior to issuing a final directive subject to this part, the Forest Service shall: (1) Provide notice to the public of a proposed directive or interim directive and provide an opportunity to submit comments during a comment period of not less than 30 days in accordance with the requirements of this section; and, (2) Review, consider and respond to timely comments received" (36 C.F.R. § 216.3).
- Suspension of implementation of the newly defined logging units as timber sales until such time as the public has been afforded a meaningful opportunity to review, comment, and participate in the decision-making process consistent with the requirements of 36 C.F.R. §§ 216.3 and 218.8.

The multiple significant impacts from the Trail 2 DN/FONSI require an EIS.

This relief is necessary to restore transparency, ensure compliance with statutory and regulatory mandates, and safeguard the integrity and defensibility of the agency's decision-making process.

The Sxwuytn-Kaniksu Connections ‘Trail’ Project area planning area encompasses approximately 90,700 acres of which approximately 40,300 acres are National Forest System (NFS) lands within the Colville National Forest (CNF). RANGER Carin Vadala signed a decision for this project on May 3, 2021, following a comment period on the Draft EA in October 2020 and Objection Period on the Final EA in December 2020. A Supplemental Information Report was completed on to be consistent with Eastside Screens where it replaced the Large Tree Management guideline. The 2021 Decision was challenged in court three years later in May 2024.

The court vacated the Finding of No Significance (FONSI) because the “maps identifying areas for commercial timber harvesting are too vague to ensure a hard look at the impact of harvesting and public comment”. The court vacated the FONSI and remand for further agency action.

The draft decision notice documents Carin Vadala’s, District Ranger, Newport-Sullivan Lake Ranger District, Colville National Forest, 2025 decision regarding actions proposed in the Sxwuytn Environmental Assessment (December 2020, hereinafter referred to as the Sxwuytn EA).

Issues:

In the order vacating the Trail project decision The Court agreed with Alliance that the EA’s reliance on condition-based man-

agement renders it too vague to satisfy the requirements of NEPA. Please find the order attached.

The new Trail project decision is still too vague to satisfy the requirements of NEPA and also violates NFMA, the APA and the Forest Plan because it doesn't give the public enough information to demonstrate that the project complies with the Forest Plan. The court found that the Forest Service's decision violated the National Environmental Policy Act because the agency failed to provide enough information to consider the potential impacts of the roads and logging on species such as grizzlies before the action takes place, as the "look before you leap" law requires. Please find attached, a copy of the Federal District Court of Montana's order on a similar conditions based management project call South Plateau.

Continuing problems for the newest Trail Project decision include:

- Descriptions of prescriptions are too vague and could open large areas to clearcut.
- The SIR and Draft Decision Notice/FONIS do not give any details on road reconstruction, in violation of NEPA, NFMA, the Forest Plan, and the ESA, which could impact all and any roads in the project area. The Forest Service hid the fact that this project allows reconstruction of up to all the existing roads without disclosing which roads and where they are.
- The Forest Service did not do forest-wide evaluation of cumulative impacts on goshawk as required by the Forest Plan.

- The Forest Service did not evaluate full impact to diversity and wildlife, including grizzly, lynx, and wolves, especially given all variables
- The Forest Service did not did not appropriately respond to Sanpoil order by protecting trees covered by Eastside screens/ showed intent to evade those standards
- The Supplemental Information Report Methodology Failed to Comply With Eastside Screens
- The Forest Service's Estimate of Impact of Eastside Screens to project has no basis.

Remedy:

Withdraw the Draft Decision Notice and FONSI and write an EIS that fully complies with the law or choose the No Action Alternative.

Goshawks

1. The CNF violated the NEPA and NFMA by changing management direction for the Northern Goshawk (hereafter "goshawk") defined in the Forest Plan without completing a Forest Plan amendment, which would also include public involvement; as well, a valid amendment for the Forest Plan needs to be done to change the current plan goshawk management direction to be consistent with the current best science.

The current CNF Forest Plan has 4 management requirements for goshawks . Page 67 of the Forest Plan requires the agency to identify the following components within goshawk territories: 6 nesting stands, 30 acres each, along with another 240 surrounding acres, to create a nesting/post-fledging area of 420 acres; total home range size should be 6,000 acres; all active nests should provide suitable nesting habitat with a canopy cover over 50%. Foraging habitat can be a combination of late- and mid-seral stages.

These management requirements are not actually based on the current best science, in violation of the NFMA and the NEPA for an MIS/Focal species. First, Reynolds et al. (1992) and the Washington state priority management recommendations for goshawks both call for a 600 acre post-fledging area, not the 420 acres identified in the CNF Forest Plan. In addition, both of these management references (Id). call for an even distribution of goshawk foraging habitat, from 10% grass/forb, 10% seedling/sapling, 20% young forest, 20% mid-aged forest, 20% mature forest, and 20% old growth forests. This strategy ensures that there will always be adequate levels of goshawk foraging habitat provided by older forests that contain a diversity and abundance of prey. The CFR Forest Plan direction for foraging habitat does not actually define any conditions for foraging habitat as per the current best science. As a result, the CNF does not actually require any given level of foraging habitat for the goshawk, although adequate foraging habitat is essential for a viable population.

Also, the current best science defines goshawk nesting habitat as having a canopy closure of 50% for ponderosa pine, 60% for mixed conifer forests, and 70% for spruce-fir forests (Reynolds et al. 1992, Table 1 at summary 7). The Washington State priority species management recommendations (2003) notes goshawk nesting stands should retain a canopy closure of 70-80%. So the allowance of thinning of goshawk nesting stands in the CNF Forest Plan down to a 50% canopy cover is inconsistent with the current best science. The basis for this 50% thinning allowance of nesting habitat was never provided in the Forest Plan or associated FEIS, as per the current best science.

Overall, the CNF strategy for maintaining a viable population of goshawks, which is a designated “focal species” for a wide variety of other wildlife species, is a violation of the NEPA and the NFMA because it is not based on the current best science, and the effectiveness of this direction has never been validated. A Forest Plan amendment is required to correct these deficiencies, including public involvement. Any management strategies for goshawks need to be based not only on the current best science, but as well, Forest monitoring.

For the Trail project, the CNF has changed the strategy of goshawk management identified in the Forest Plan to replicate the Historic Range of Variation (HRV), without doing a Forest Plan amendment or obtaining any public involvement, in violation of the NEPA and the NFMA. HRV for goshawks is defined in Table 17 of the project EA as ranging from 31-47% primary

and secondary habitat for the four 6th code watersheds in the Trail Creek Project Area. Primary and secondary habitats are combined, so the HRV for each type is not identified. Primary habitat is only defined as mapped nest stands, alternate nest stands, and potential habitat in mesic vegetation types (Table 12, Wildlife Report). Secondary habitat is defined in this table as Douglas-fir-Dry Vegetation type maintained through thinning. Table 19 of the Wildlife Report states that for the Trail Creek project area, 14,200 acres of secondary habitat will be “maintained” by thinning to a 50% or greater canopy cover. This is 68% of the total 20,780 acres of goshawk habitat identified in the project area that will be “maintained” with thinning. It is never identified why the other 19,670 acres of habitat in the project area are not required for goshawk management (essentially half the landscape), or for the other wildlife species indicated by goshawks.

The reason why “maintenance thinning” is required for goshawks for the 14,202 acres of Douglas-fir secondary habitat in the project area down to a 50% canopy cover is never identified. For example, there is no information provided as to why maintenance thinning is needed to maintain goshawk prey species in violation of NEPA, NFMA and the APA.

Reynolds et al. (1992) identifies a variety of wildlife as prey for goshawks in Table 7 including American Robins, Band-tailed Pigeons, Blue Grouse, chipmunks, cottontails, Hairy Woodpeckers, Mantled ground squirrels, Mourning Doves, Northern Flick-

ers, Red-naped Sapsuckers, Red Squirrel, Stellar's Jay, Tassel-eared Squirrel, and Williamson's Sapsucker. The Management Recommendations for Washington's Priority Species (Birds) (2003) list the following as goshawk prey species: Douglas squirrel, grouse, snowshoe hares, chipmunks, northern flying squirrels, Stellar's jays, Northern Flickers, small woodpeckers.

The CNF did not define why forest thinning is required to maintain these various prey species for goshawks, or as well, why canopy/forest reductions down to 50%, along with the various structural changes this entails, will not change goshawk prey population densities and composition. A variety of structural and forage availability will change with forest thinning, such as a reduction in conifer seed production that feed huge numbers of wildlife species, a reduction in open nesting sites, a reduction in thermal cover, a reduction in hiding cover, a reduction in snags and downed logs needed for both nesting and foraging sites for a large number of wildlife species, and a reduction of the insects that feed on trees and are then fed upon by many birds.

In spite of the potential logging, etc. of 14,202 acres of goshawk habitat on public lands in the Trail Creek landscape, the agency did not ever demonstrate how this will affect HRV, which is the claimed reason for treatment in the first place. Table 17 of the Wildlife Report shows the current versus HRV levels of goshawk primary and secondary habitat in the project area. Yet there is no disclosure what these HRV levels will be with project completion.

In the analysis of how HRV in the Trail Creek project area, which is being implemented to maintain a viable population of goshawks, the agency did not define how HRV viability for goshawks was actually determined. In addition, the agency never demonstrated how the proposed thinning will change HRV to the desired level. It is not clear that thinning of 14,202 acres of Douglas-fir forests will create the HRV target. How the HRV target will change with this vast thinning of goshawk habitat is never defined. The assumption appears to be that thinning secondary forests will not change HRV values, so how can HRV desired levels every be achieved? On the other hand, if logging secondary habitat changes HRV, with these reductions, HRV will be reduced from estimated historic levels of 47%, 34%, 31%, and 31% minimum levels of goshawk habitat in the 4 affected watersheds down to 20.5%, 16%, 8.4% and 25% post-project. This is directly counter to the claims that the project is needed to restore HRV for goshawks.

In conclusion, the agency's analysis of goshawk viability as per HRV is nonsensical, and is a violation of both the NEPA and the NFMA.

In addition, the CNF Forest Plan uses an invalid measure of canopy closure for goshawk nesting areas. This Plan states that "all active (within 5 years) and replacement nest sites for the northern goshawk should provide suitable nesting habitat with more than 50 percent canopy closure. The basis for this 50% canopy cover requirement is never identified. Reynolds et al.

(1992) notes that nesting habitat needs to have a 50% canopy closure for ponderosa pine forests, a 60% canopy closure for mixed conifer forests, and a 70% canopy closure for spruce-fir forests (Table 1 at summary 7). The Washington State Priority species management recommendations for goshawk nesting habitat are to retain an average canopy cover closure of 70-80% in nesting areas (page 6-16).

Also, the CNF has added another management criteria for goshawk PFA habitat that is not in the Forest Plan. The Trail Creek EA states in Table 19 that the treatment of up to 14,020 acres of secondary goshawk habitat will maintain a 50% or greater canopy closure. Also, this EA at 20, as per design features, again states that within mapped secondary goshawk habitat, the treatments will maintain more than a 50% canopy closure “overall.” The basis for this design features is never identified. Secondary habitat could include both goshawk PFA habitat as well as foraging habitat. As per Reynolds et al. (1992), canopy closure recommendations for mid-aged to old forest types range from 50-70% in PFA habitat, depending upon the forest type, while canopy closure for foraging habitat in mid-aged to old forest types ranges from 40-60%. Also, the Washington State recommendations for management of goshawk habitat PFA is to manage for at least a 60% canopy closure for eastern Washington. These recommendations also include retention of at least a 60% canopy closure in mid-aged, mature and old forest successional stages.

In conclusion, the CNF proposed management strategy for the Northern Goshawk, a forest MIS and focal species, are not consistent with any current science for managing this species, and have no validity as per measuring project impacts on this species, in violation of the NEPA and the NFMA.

2. The agency is violating the CNF Forest Plan by failing to identify the 6000 acre home ranges for goshawk across the project area.

The CNF Forest Plan requires the agency to identify all 6,000 acre goshawk home ranges within a given project area, which includes nesting, post-fledging, and foraging habitat. This was not done for the Trail Creek projects. The project area is 91,400 acres in size. This landscape could thus contain 15 goshawk territories, each of 6,000 acres. Only 3 known nesting areas have been identified, which means 12 potential goshawk home ranges have not been mapped. The Forest Plan does not state that home ranges do not have to be identified if the nesting areas are not on Forest Service lands. This would allow the agency to dismiss management of this MIS/focal species on most of the lands within a project area. This in turn would eviscerate the function of MIS and focal species, as large pieces of agency lands would not be managed for these species. For the Trail Creek projects, all 15 potential goshawk territories need to be mapped and Forest Service lands within these territories managed as per the For-

est Plan to address the NFMA requirements for management of MIS/Focal species across entire landscapes, not just pieces of a landscape.

3. The agency is violating the 2012 Planning Rule by failing to monitor goshawk population trends either with direct population monitoring or use of a habitat proxy that accurately reflects population trends.

The 2012 Planning Rule requires monitoring to include the status of focal species to assess ecological conditions required under 36 CFR 219.9. Monitoring of MIS/focal species can be done with habitat proxies as long as the agency has the knowledge of what qualify and quantity of habitat is necessary to support a species, and that methods to measuring existing habitat are reasonably reliable and accurate. As noted in CV 23-110-M-DWM, habitat proxies must reasonably correlate to the actual population of the wildlife species being monitored. For the CNF monitoring of the MIS/focal species the goshawk, there is no population monitoring or monitoring of habitat. As such, the monitoring requirement is not being met. Instead of monitoring a habitat proxy or actual goshawk populations, as is required by the 2012 Planning Rule, the CNF Forest Plan monitoring requirement for the goshawk is number of acres surveyed and nests located (Forest Plan Chapter 4-165). These monitoring actions alone do not provide any information on goshawk populations trends, and thus those of other species “indicated” by goshawks. Population

viability/trend requires a forest-wide assessment of territory occupancy over time. Thus the required function of MIS monitoring, or to determine the effects of forest management on an MIS and/or focal species, is not being met with the CNF Forest Plan, in violation of the NFMA and the 2012 Planning Rule.

4. The agency is violating the NEPA by failing to base and assess goshawk management on cumulative landscape features, including all lands within the project area, not just lands owned and managed by the Forest Service.

The Trail Creek project areas consist of 91,400 acres. Yet the agency evaluated the impacts of the proposed Trail Creek projects only on intermingled Forest Service lands, which comprise only about half of the project area (40,450 acres).

Goshawks populations cannot be managed on each 640 acres of Forest Service lands, given their territory is roughly 6,000 acres. Management to maintain viable populations has to consider all landscape features that are included within as given territory.

Thus the level of goshawk habitat on intermingled non-Forest Service lands has to be considered when planning management activities on Forest Service lands. For example, if mid-aged, mature and late-stage goshawk foraging habitat is limited on intermingled non-Forest Service lands, retaining viability of goshawks will require more extensive habitat management of foraging habitat on Forest Service lands. If the Forest Service knows that this foraging habitat is limited on intermingled non-

Forest Service lands, but fails to consider this habitat deficit within a given goshawk territory in agency management plans, this action triggers a NEPA violation due to a failure to take a “hard look” at environmental impacts of a project. Goshawk management is not feasible without evaluating habitat across an entire landscape.

In order to meet the requirements of the NEPA to take a “hard look” at management effects on goshawks, as well as to meet the requirements of the NFMA to maintain a viable population of goshawks across the CNF, the agency is required to evaluate all goshawk habitat conditions across the entire project area, including all 91,400 acres, and manage goshawk habitat on Forest Service lands based on the cumulative conditions per territory, not on just Forest Service lands. This also requires the agency to complete valid nesting surveys for goshawks across the entire 91,400 acre project area. Any goshawk nesting area located on intermingled non-Forest Service lands in the 91,400 acre project area will also be associated with adjacent Forest Service lands. Thus knowing the location of goshawk nesting areas on intermingled non-Forest Service lands is essential for agency management of this MIS/Focal species.

5. The agency is violating the NEPA, the NFMA and the 2012 Planning Rule by failing to assess goshawk viability within the Trail Creek project areas.

None of the Trail Creek NEPA documents, including the 2nd EA and Wildlife Report, estimate what the viability of the goshawk population is within this 91,400 acre landscape. For example, with 15 potential territories, each of 6,000 acres, how many actual territories are occupied? How many territories on average need to be occupied in a given landscape (e.g., 91,450 acres) to indicate habitat management for this MIS/focal species is effective and working? This is essential information in order for the agency to meet the requirements for monitoring MIS/Focal species. The requirement of the agency to conduct these expansive goshawk surveys as per the NEPA and the NFMA cannot be dismissed because a project area is so large as to make such assessments essentially impossible in a timely manner for projects. This NEPA requirement exists regardless of project area size. Implementing management proposals within a given landscape (e.g., Trail Creek project area) without any knowledge of the MIS/focal species, goshawk occupancy and local population status eviscerates the function of MIS/focal species, and thus violates both the NEPA and the NFMA, and the 2012 Planning Rule.

The Trail Creek SIR, Draft Decision Notice and FONSI violate the Forest Plan by not analyzing the cumulative effect of logging across the CNF on goshawks.

The Forest Service did not evaluate full impact to diversity and wildlife, including grizzly, lynx, and wolves, especially given all variables.

Following are recent logging projects that need to be analyzed as part of the Trail project cumulative effects analysis:

All these are in the Pend Oreille Valley.

Slate EA

Trail EA

Boulder Park EA

Limestone-Silver EA

Sweet-Ione Integrated Resources Project

These are just west of the Pend Oreille Valley and East of the Columbia River

Meadow Lakes EA

Middle and South Fork Mill Creek A to Z

North Fork Mill Creek A to Z

Please see the following from the attached Federal District Court of Washington on the Sanpoil Project

The Forest Service studied the impacts of the Sanpoil Project on the Northern goshawk, an old-growth-dependent species. The agency noted that the cumulative effects area for the goshawk is the entire Colville National Forest, AR 06305, and that commercial logging has the greatest potential to reduce goshawk nesting and foraging habitat, AR 6304. The agency estimated that the Sanpoil Project will reduce potential goshawk habitat by nearly 5,000 acres, or 17% of the habitat in the Sanpoil Project area. AR 06304. Nonetheless, the agency concluded the Sanpoil Project would not lead to a loss of viability for the species. AR 06305.

The agency erred by not including a meaningful discussion of logging projects that, in conjunction with the Sanpoil Project, would impact the Northern goshawk habitat and population.

The agency determined that commercial logging has the greatest potential to impact goshawk habitat. The agency found that other vegetation restoration projects would contribute to effects on the goshawk, AR06045 (Table 11), but the agency considered only a handful of approved and proposed projects in its effects assessment. AR 06305; AR 06317–22.

The NEPA requires the agency to consider the cumulative environmental effects of past, present, and reasonably foreseeable future actions. See 40 C.F.R. § 1508.1. The Sanpoil Project itself is estimated to dramatically reduce forest-wide habitat, yet the agency declined to meaningfully consider a number of present and future logging and restoration projects that will have a cumulative impact on the Northern goshawk.

The same Forest Plan violation occurs here.

Remedy:

Withdraw the Draft Decision Notice and FONSI and write an EIS that fully complies with the law.

Snags

1. The agency is violating the NEPA by failing to provide baseline conditions for snags in the Trail Creek Project Area.

The Trail Creek Project Area consists of approximately 90,400 acres. This includes 40,300 acres owned by the Forest Service. Although almost all resource management issues/strategies for the Trail Creek project are broken down into watersheds, this was not done for snag habitat. Instead, snag habitat was measured for the entire project area at the Tacoma-Pend Oreille River 10th order watershed, which covers roughly 76% of the Trail Creek project area. The agency did not define why snags were not being monitored at the smaller watershed units in the project area, which include either 4-6 smaller watersheds. Table 5 in the Supplemental Forest Vegetation Report, and the project EA at pages 45-46, identify 5 watersheds in the project area. However, the project EA at 43 states that there are 6 watersheds in the project area, and that these watersheds provide the analysis basis for evaluating project impacts. The project EA at 55-56 identifies that Forest Service lands (40,450 acres) in the project area contain four (4) 6th field watersheds (Table 18). The project EA at 32 states that commercial treatments would comprise a large percentage of the following 5 watersheds over the next 20 years: CCA Creek (62%), Middle Creek (75%), Skookum Creek (81%), Exposure Creek (88%), and Cusick Creek (61%). The project EA at 53 states that goshawk habitat was evaluated by historic conditions per 6th field watersheds; these are defined as 4 6th field watersheds totaling 40,453 acres on Forest Service lands in the project area (Table 17). Regardless of how many watershed divisions occur in the Trail Creek Project Area, none of these individual watersheds were used to inventory snag habitat.

Provision of snag data by size and density is essential in order for the public to understand current wildlife habitat conditions in the Trail Creek Project Area. And this information should be presented to the public in terms that are associated with snag density requirements for wildlife, which is number and size of snags per acre. On Forest Service lands, it is noted in the Wildlife Report that densities of large snags over 20 inches dbh are limited in the project area, on both Forest Service and non-Forest Service lands. On Forest Service lands, there have been at least 12,500 acres of timber harvest, which would cover about a third of these public lands. And in particular, it is noted in the Wildlife Report at page 23 that if post-harvest levels of snags do not meet Forest Plan direction, then snags will be created. This is an acknowledgement that snag densities in harvest units may not even currently meet Forest Plan direction. This is essential information that needs to be provided to the public. These snag densities in planned harvest and restoration units define wildlife habitat values, and this information is not being provided to the public, as is required by the NEPA. As per the Forest Plan, if current snag densities in proposed logging and restoration units do not currently meet Forest Plan direction, these treatments are a violation of the Forest Plan, which means a Forest Plan amendment is required.

Snag densities define wildlife habitat values for many wildlife species, including surrogate species identified for the CNF.

These density recommendations were defined by the management recommendation for Washington Priority bird species as follows: 2 snags per acre over 20 inches dbh for the Flammulated Owl; 2-4 snags per acre over 16.6 inches dbh for the White-headed Woodpecker; and 3.2 snags per acre for the Pileated Woodpecker, with at least 20% of these being over 20 inches dbh. Snag density and size per acre in planned harvest units is essential information that needs to be provided to the public as per the NEPA, in order for the public to understand current wildlife habitat values for surrogate species in the project area, and how this project will affect these wildlife species. This basic information to the public is not provided by the CNF Forest Plan direction for snags, which is basically meaningless for public information. As is noted below, the agency needs to amend the Forest Plan to include understandable measures for snag habitat that provides valid information not only to the public, but for viability of wildlife associated with snags.

2. The CNF has snag management direction that does not provide any meaningful information to the public; the Forest Plan needs to be amended so that Forest Plan direction provides meaningful information to the public, including whether the agency is meeting this Forest Plan direction.

The Trail Creek wildlife report Table 26 summarizes the CNF Forest Plan desired conditions for snags. This table does not define to the public what the minimum density and size of snags

should be in forested lands. Yet snags per acre is the standard description of snag habitat for wildlife, as we noted in #1 above. The CNF snag recommendations for desired conditions therefore cannot be used by the public to assess how the agency is maintaining snag habitat during management actions, or as well to indicate snag habitat availability for wildlife. This direction needs to be amended to be “user friendly” so that public understanding of snag measurements is possible.

3. The agency is violating the NFMA by failing to complete a Forest Plan amendment to allow violation of Forest Plan direction for snags.

The agency did not provide any snag assessments post-project, in violation of the NEPA. Yet it is clear that Forest Plan snag levels will decline with this project, as was noted in the Wildlife Report. The project snag inventory is a measurement of the Forest Plan vegetation guideline 4 for snags, provided in Table 26 of the Wildlife Report. The guideline does not actually require any given level of snags, but provides a range of snag sizes that need to occur also over a range of area of a landscape. For some categories, zero snags meet the direction. In order to meet this Forest Plan guideline, inventoried snags ranges would have to be consistent with each of 6 snag levels per forest vegetation type. The snag inventory results for the Trail Creek project in Table 26 show that some snag ranges for snag sizes are met, while others are not. This is particularly true for snags over 20

inches dbh, where almost no such snags exist in any numbers over any portions of this watershed. There is also no information provided, as is required by the NEPA and the NFMA, as to what snag habitat as per Table 26 will be post-project. Thus the agency has not identified the direct impact of this project on snags. This failure is likely related to the failure of the agency to complete a Forest Plan amendment to violate the Forest Plan snag direction.

4. The agency is violating the NEPA and NFMA by claiming that woodpecker population densities ensure viability without providing any actual inventories of these species; in addition due to a lack of analysis, post project impacts on the Pileated and Black-backed Woodpeckers remain unknown.

The Wildlife Report at 62 claims that current snag densities and sizes ensure that the population densities of Pileated and Black-backed Woodpeckers are at least 30% of their potential. Given an estimated home range size of both species as about 1,000 acres as per the Washington state wildlife management recommendations for priority bird species, this would require roughly 12 nesting pairs of each species on Forest Service lands in the Trail Creek project area (40,300 acres would provide about 40 territories per species, with 30% of these territories coming to about 12 nesting pairs). There were no surveys provided for either species in the Trail Creek Forest Service lands and adjacent non-Forest Service lands, which would also include home

ranges of Black-backed and Pileated Woodpeckers. It is therefore unknown how many nesting pairs of either species are actually present at this time anywhere in the project area. Use of a proxy of snag numbers to measure populations of wildlife requires that snag densities have been shown to correlate to actual populations of the Pileated Woodpecker and Black-backed Woodpecker. No actual supporting documentation was ever provided in the Trail Creek wildlife report to demonstrate snag densities are an accurate measure of woodpecker populations. As such, this use of snag densities as a proxy for current population levels of woodpeckers is invalid. In addition, the agency did not define post-project snag levels as per the Forest Plan vegetation guideline, so post-project population potential was never even defined for these 2 species. In summary, both current and post-project populations levels of the surrogate species the Pileated Woodpecker, and the MIS/Focal species the Black-backed Woodpecker, are unknown for the Trail Creek Project.

Remedy:

Withdraw the Draft Decision Notice and FONSI and write an EIS that fully complies with the law.

Wildlife Surveys/Forest Plan Compliance

1. The agency is violating the Forest Plan by failing to complete wildlife surveys as required by Guideline 17 for

Wildlife; no Forest Plan amendment was completed to allow this violation.

The Forest Plan at 66 requires that timing guidelines be implemented for protection of the following species: Cooper's Hawk, Sharp-shinned Hawk, Red-tailed Hawk, Flammulated Owl, and Great Gray Owl. All of these forest raptors are noted to potentially occur in the Trail Creek Project Area. The Trail Creek NEPA documents, including the wildlife report, and design features, do not identify this Forest Plan requirement, or indicate that it will be implemented for this project. As such, the agency needs to complete a Forest Plan amendment for this violation. Also, given that the CFP indicates that protection of these forest raptors during the nesting season is important, failure to protect these nesting areas will trigger unknown impacts to an unknown number of these forest raptors and their young. This alone could easily result in significant adverse impacts to these 5 forest raptors. This potential impact, along with the failure of the agency to adhere to Forest Plan direction for wildlife, indicates that significant impacts require completion of an EIS.

2. The agency is violating the Forest Plan by failing to complete wildlife surveys as required by the Forest Plan to protect nesting Northern Goshawks and Golden Eagles.

The Forest Plan at 62 requires that nesting activities and periods for the goshawk and Golden Eagle be protected during the nesting season. Although the NEPA documents for the Trail Creek project claim that goshawk nesting surveys will be done during project implementation, no such surveys are identified for the Golden Eagle. In addition, simply stating that goshawk surveys will be done during project implementation does not ensure compliance with the Forest Plan. If goshawk surveys are actually planned, a specific schedule for these surveys, including dates and years and area to be surveyed per year, needs to be provided other wise the project will violate NEPA. Also, the type of survey to be done, it's reliability, and the specific human-power that will be both required and be available, along with survey costs, need to be demonstrated over the life of this project. Similar information is also required for the Golden Eagle surveys. This specific information is required as per both the NEPA and the NFMA. Promise of future compliance does not satisfy the NFMA; this amounts to authorizing a project and verifying compliance later; avowing that future actions will comply with the Forest Plan fails far short of showing that this actually will be done. It is the duty of the Forest Service to demonstrate Forest Plan compliance at the time of the decision, not a speculative future date. In addition, the Forest Plan is intended to apply for a 15 year period, and as such, is not authorized with the purpose of approving projects that have the same lifespan as the Plan, such as the Trail Creek project.

Failure to provide goshawk and Golden Eagle survey data prior to a project decision also violates the NEPA by preventing the public access to this survey information while commenting on their issues for this project. For example, the Federal District Court of Montana wrote in their attached order for the South Plateau project,

NFMA compliance demands more than the agency's "word" that it will comply. See Alliance for the Wild Rockies v. Marten, 2021 WL 4551496, at *4 (D. Mont. Oct. 5, 2021).

For example, the public is not able to comment on the quality of wildlife surveys that were done, even though these surveys may be of low quality and insufficient to meet the protection requirements of the Forest Plan. Nor is the public able to comment on the mitigation measures being proposed for located nests. Also, failure of the agency to provide the required wildlife survey information during the public comment period violates the NEPA which requires the agency to provide high quality information. In addition, there is no NEPA process available to the public to affect a project decision once the decision has been made. Although wildlife survey data could be obtained via a Freedom of Information Act (FOIA), this information could not be used to challenge a decision that has already been made.

Remedy:

Withdraw the Draft Decision Notice and FONSI and write an EIS that fully complies with the law.

Violation of the 2012 Planning Rule for Focal Species

1. The CNF is in violation of the 2012 Planning Rule to identify and monitor a focal species for wildlife that require snags/cavities for breeding; until this deficiency is corrected with a Forest Plan amendment, no further impacts on snag habitat can legally occur.

The 2012 Planning Rule requires the Forest Service to identify MIS/focal species for monitoring of vegetation management effects on wildlife. We previously noted that this rule is violated for the MIS/focal species the goshawk, as management effects on this species are not be monitored simply by measuring acres surveyed or nests located. Population trend data for goshawks requires that occupancy of forest nesting territories be monitored over time. The 2012 Planning Rule for focal species is also being violated for cavity nesting wildlife. Although the Black-backed Woodpecker is noted to be an MIS/Focal species in the CNF Forest Plan, this species is actually designated for burned forest habitat, not snag habitat that exists across the CNF due to insects and disease.

The following wildlife species that use snag and cavities in snags for nesting that are known to occur on the CNF, and who also have some conservation concerns as per the project wildlife report (Tables 19, 20, and 21), include the following ten (10)

species: Pine Marten, Black-backed Woodpecker, Fringed Myotis, Pallid Bat, Pileated Woodpecker, Western Bluebird, Wood Duck, Flammulated Owl, Red-naped Sapsucker, and Williamson's Sapsucker. Snag habitat requirements for these 10 wildlife species are not being monitored to measure management effects and population persistence, in violation of the NFMA. The Forest Plan vegetation guideline for snags has never been demonstrated to reflect in any manner the habitat needs of these 10 wildlife species, and does not provide an "indicator" of their population trends. Until the CNF amends their Forest Plan to identify a focal species for these 10 species of cavity-associated wildlife species, along with the identification of a measurable, valid habitat parameter that would provide a "proxy" of their population levels, there can be no further logging and reduction of snag habitat across this forest. Without such an amendment, the cumulative impact of forest management on these 10 species of conservation interest will continue to be unknown, in violation of the NEPA and the NFMA.

Remedy:

Withdraw the Draft Decision Notice and FONSI and write an EIS that fully complies with the law or choose the No Action Alternative.

Thank you for your time and consideration of our concerns.

Sincerely yours,
Mike Garrity

/s/

(Lead Objector)

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