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Comments: On March 30, 2015, Native Ecosystems Council (NEC) and the Alliance for the Wild Rockies (AWR) objected to the Clear Creek Integrated Restoration Project (hereafter "Clear Creek Project"). On November 13, 2018, NEC and AWR submitted comments on the draft Supplemental Environmental Impact Statement (DSEIS).

We wish to incorporate all the legal violations identified in our 2015 Objection against this project. We also wish to incorporate all the issues and concerns we identified for the Clear Creek Project in our November 2018 comments on the DSEIS. We could find no information in the draft Record of Decision (DROD) as to how the agency addressed these comments

Due to the agency's proposed amendment to the Nez Perce 1987 Forest Plan for old growth, we are expanding this current objection to address this proposed amendment as well as the additional information provided on the agency's web page for this project on old growth management information.

As per the November 2018 comments NEC and AWR submitted for the Clear Creek Project, we identified the failure of the Forest to use the current best science for management of the wolverine. As a result, the DSEIS failed to identify that the project will have severe adverse impacts on this sensitive species, while the agency claims only 95 acres of wolverine habitat will be impacted within the 43,733 acre project area. This is a violation of the National Environmental Policy Act (NEPA), because accurate and high quality information on project impacts on public resources has not been provided, even though the wolverine is a sensitive species. The proposed project and high active motorized route density that will occur over a large landscape will significantly eliminate any wolverine use of this area, an impact never disclosed by the agency. A valid EIS would demonstrate that this landscape will be created generally unsuitable for this sensitive species as a result of the project, in violation of the National Forest Management Act (NFMA). Creation of large landscape areas that lack specific wildlife species, violates the "well distributed" requirement of the NFMA for species diversity.

We tied in our concerns for the wolverine not only with roads, but with management of big game winter ranges. These are key winter/spring habitat areas for the wolverine, and the Clear Creek Project includes a large acreage of logging on this winter range, including clearcuts. To date, the agency has provided no monitoring that these treatments on big game winter ranges actually improve habitat for big game, and thus for the wolverine. We could find no documentation in any of the Forest Plan monitoring reports, the last one apparently being 2009, that actually evaluated the impacts of these vegetation management activities on big game winter ranges. This is a violation of the NEPA as well as the Administrative Procedures Act (APA), because claimed benefits are never actually demonstrated. There currently is almost no information provided on the elk population trends in the Clear Creek Project Area, so there is no basis for doing any alterations of big game winter range without any supporting data. This is particularly relevant to the wolverine, a sensitive species.

One particular concern for winter range management and the wolverine was Management Area 21, which is to be managed for moose winter range. We noted that as per the current best science, thermal cover, or stands with a canopy cover of at least 70%, are essential for moose in the winter. There was no information ever provided in the DSEIS as to how the proposed treatments on moose winter range will maintain habitat. This species is noted to be a management concern, so failure to manage their critical winter habitat to maintain winter use will trigger further declines in this species. This direct impact of the proposed logging in MA 21 was never identified in the DSEIS. Almost half of this key winter range in MA 21 will have been removed with this project. Thus agency management will reduce moose winter habitat potential by half.

We also raised extensive concerns about the information that was provided in the DSEIS on old growth. We are

bringing forward this issue again, and including the additional information the agency provided on old growth management in the Clear Creek Project Area, in part due to the proposed site-specific Forest Plan amendment for old growth. In spite of our concerns about the lack of information on old growth management, this issue was not addressed in any response to comments. There is still a failure of the agency to define old growth management to the public in the Clear Creek Project Area. This failure includes the agency demonstrating how implementation of the 1987 Forest Plan direction for old growth will maintain viable populations of 20 or more wildlife species associated with old growth. The 5-10% standard is well below historical levels of old growth, as well as recommendations for old growth wildlife, including the 25% identified for the pileated woodpecker, a management indicator species (MIS) for old growth on the Nez Perce National Forest.

We requested information on the status of the Designated Routes and Areas for Motorized Vehicle Use (DRAMVU) and how this pending decision relates to the Forest Plan. Without any response to comments, no information was provided on this concern.

We noted that this area is possibly occupied by lynx, due to a lack of valid surveys or camera! monitoring. As such, this project is required to be managed by the Northern Rockies Lynx Management Direction (hereafter "Lynx Amendment." Logging of lynx foraging habitat, and precommercial thinning of forests, is not allowed by the Lynx Amendment except in the Wildland Urban Interface (WUI). This WUI was not defined for this project based on the Lynx Amendment or the Healthy Forest Restoration Act (HFRA). As a result, many of the proposed vegetation treatments violation the Forest Plan, in violation of the NFMA. Also, even if the Lynx Amendment was correctly applied to the Clear Creek Project, it would be a violation of the Endangered Species Act (ESA) because this direction is not based on the current best science. Any site-specific consultation with the U.S. Fish and Wildlife Service that uses this Lynx Amendment as a basis for measuring significant adverse impacts to the lynx will also be invalid.

1. Remedy

Due to the many legal violations that would be triggered by the Clear Creek Project, including violation of the NEPA, the NFMA, the APA and the ESA, NEC and AWR believe that this project needs to be withdrawn. Any redesign of this project needs to adhere to all existing Forest Plan direction, with an exception to amend the Lynx Amendment to include the current best science so that it complies with the ESA and the NFMA. Any redesign of this project also needs to adhere to the NEPA by limiting the scope and size of a project to a scale that can be reasonably defined to the public with high quality information (including maps that can actually be read), and as well, limited to a size that can be realistically field[shy] reviewed by the public as well as monitored during project implementation. Also, the size of a redesigned project needs to be limited to a size where valid wildlife inventories can be completed for all MIS and sensitive species. It is evident from the proposed Clear Creek Project that there can not possibly be any valid quality to what are likely extremely limited surveys for these species. It would like take a huge increase in wildlife personnel to survey the huge acreage of proposed logging and burning units.

1. Description of Those Aspects of the Proposed Project that Violate Laws and Forest Plan Direction

A. The proposed project will violate the ESA, the

NEPA, the APA, and the NFMA.

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1. The Amendment to the Forest Plan old growth definition in Appendix N is a violation of the NFMA and the NEPA.

The agency claims that changing the definition of old growth from the 1987 Forest Plan to that of the minimum criteria for old growth in the 2005 errata for Green et al. (1992) as amended will not change any old growth management on the Forest. This is clearly false, as the proposed change will allow extensive logging of old growth stands. The "revised" Green et al. (1992) as amended old growth criteria have added the minimum basal area of a stand as one of the 3 minimum criteria that are used to define old growth. This revision of the minimum basal area reduces the minimal basal area of old growth stands by up to 3-4 times, with some old growth stands requiring only a basal area of 40 square feet per acre.

Thus a forest stand that has been logged via improvement cuts, or commercial thins, or standard silvicultural practices to promote timber production, can still be called old growth on paper. The 2005 change in the Green et al. (1992) as amended old growth definitions are never defined as to why the minimum basal area per old growth type was changed. The number of plot samples remains the same, and the sampling information was not changed. The creation of a new minimum basal area for an old growth type was not based on any new data. It is clearly an arbitrary modification of the old growth definitions to allow heavy logging of old growth stands. There are a number of references in the old growth information provided for this project noting it will allow logging of old growth by improving old growth (e.g., silvicultural prescriptions would be developed to retain old growth conditions as described in Green et al. (2005); alternatives B, C and D would improve an undisclosed acreage of old growth at Volume 63 Document 2029). If old growth stands are logged, they will have no old growth

value to MIS for old growth, including the pileated woodpecker and pine marten; foraging habitat for the MIS goshawk will also be severely degraded as per red squirrels and snowshoe hares. Logging would never be defined as "improvement" of habitat for old growth wildlife by any current science that was ever provided by the agency.

The agency claims that no old growth will be logged in the Clear Creek project, but this is never supported with any actual information provided on old growth, including maps of existing units. Also, there will be heavy logging in MA 21, which is for old growth management, including clearcutting. So the effect of the proposed amendment, to convert to the 2005 minimum criteria by Green et al. (1992) as amended is unclear for vegetation treatments in old growth. What the actual intent of this amendment may be is to increase the acreage and percentage of claimed old growth in the project area. If the minimum criteria are used, instead of the 1987 Forest Plan definition, an undefined acreage of logged

forests could not be claimed as old growth, which would be important to meeting the Forest Plan standard of 10% old growth, with at least 5% in each principle watershed. The public does not actually know the level of old growth in the Clear Creek Project, because it is being defined by the revised Green et al. (1992) as amended

minimum criteria, which do not have to actually be old growth.

As per the NEPA, the proposed amendment needs to compare what the level of old growth is for the Clear Creek Project Area based on the existing Forest Plan direction, and the proposed revised minimum criteria by Green et al. (1992) as amended. If this amendment is being completed to get the desired result of attainment of the Forest Plan standard, it needs to be disclosed to the public in the proposed amendment.

Changing the old growth definition to potentially achieve a Forest Plan standard is indicated by what appears to be extensive past logging of old growth forests. For MA 20, it is noted that there is only 327 acres of old growth, which would be 11% of this MA. Since the Forest Plan states that there would be no logging in this MA

until decade 10, this logging has apparently proceeded in violation of the Forest Plan. Also, the Forest Plan states at 111-56 that half of this MA will be managed for old growth, and the other half managed as replacement old growth. Clearcutting would hardly be replacement old growth. So changing the definition of old growth that allows logged stands to be called old growth would make up for past logging of old growth as per the 10% Forest Plan standard, or as well, the old growth recommendations for MA 20.

There has also been extensive logging in MA 21, which is for old growth management and moose winter range. 62% of this MA has been logged. So it has not been managed for old growth.

It is not clear if accurate information is available on old growth for the Clear Creek Project. Old growth information defines the same level of old growth for both MA 20 and 21 for both Forest Plan and amended Green definitions, which seems highly unlikely. Also, the levels of old growth in the Clear Creek Project area vary from 9% to 11%. If they are actually 9%, the Green adjusted definition would allow logged forest stands to be added to the old growth tally, to meet Forest Plan direction.

Volume 29, document 620c notes that the minimum criteria as per Green et al.

{{1992) are meant to be used as a screening device to select stands that may be suitable for management as old growth and are meant to be used as a guide to evaluate initially selected stands; no set of numbers can be relied upon to correctly classify every stands.

2. The agency is violating several Forest Plan directions/standards for old growth and MA 21.

The Nez Perce Forest Plan in Appendix N states that if existing old growth acres are less than 100 acres, the stands between the old growth blocks should be designed old growth replacement; the entire unit consisting of old-growth blocks and replacement old growth should be managed as an old-growth complex; if the old-growth component is less than 50 percent of the complex, the complex should be considered replacement old growth; within the old-growth complex, only the stands that meet old-growth criteria will be counted toward meeting the allocation for existing old growth; the replacement stands will be counted toward meeting the allocation for replacement old growth. There is no analysis provided in the Clear Creek Project NEPA documents that define how this standard was applied and achieved. It appears that this standard was ignored.

Appendix N also states that 5% of each prescriptive watershed is to be managed as replacement old growth. There is no 5% replacement old growth identified for any of the watersheds in the Clear Creek Project.

A standard for MA 21 is that clearcuts not exceed 20 acres. There are planned clearcuts in MA 21 that will exceed this size. As noted in the draft ROD at page 11, there are 3 clearcuts planned that will exceed 20 acres: unit 139 is 89 acres, unit 145 is 100 acres, and unit 136 is 49 acres. There is no information provided as to why

violation of this direction is needed to improve moose winter range. There is also no analysis provided to demonstrate that forests in MA 21 are being managed on a 210 year rotation. In the past, this rotation could not have been implemented since 1987 if 62% of this MA has already been logged. Yet there are a total of 1472 acres of new logging planned in MA 21 as per the draft ROD page

1. It seems impossible that the 210-year rotation is being implemented. It appears that the MA acres in this Clear Creek Project area are 2700 acres, so this project would log 55% of this MA in just 10 years. This is not a 210-year rotation.

Also, management of MA 21 has direction that leave areas will be left between harvest unit to provide travel corridors for moose. As per our previous comments, travel corridors need to be thermal cover (70% canopy cover) in order to avoid heavily-packed deep snow conditions as per Tyers (2003). For elk travel corridors are defined as at least 800 feet, so this would likely apply to moose as well, to provide at least some thermal conditions in the center of these corridors. There is no information on how or where these required corridors will be provided in MA 21.

The Forest Plan at 11-6 states that MA 21 will be managed to maintain habitat for existing or slightly increased moose populations. Yet there is no monitoring data for moose population trends on the forest, although there is a concern that the population has declined. As such, management (logging) of MA 21 has not meet the Forest Plan standard of maintaining moose. No Forest Plan monitoring data has been provided to indicate this logging will maintain/increase the current moose population, or address the noted population concern for this big game species.

3. The agency has not identified any Forest Plan amendments that allow the change in elk habitat recommendations from the recommendations provided in Appendix B of the Forest Plan, to Servheen et al. 1997, titled "Interagency Guidelines for managing elk habitats and populations on U.S. forest Service lands in Central Idaho.

Appendix B of the Forest Plan states that the Guidelines for evaluating and managing summer elk habitat in Northern Idaho, by Leege (1984) will be used to coordinate vegetation management with elk summer habitat. The Clear Creek NEPA analysis states that these 1984 guidelines have been replaced with the Servheen et al. (1997) guidelines. However, without a Forest Plan amendment, this change is not valid. If no Forest Plan amendment has been completed to legalize this change, the Clear Creek Project is in violation of quite a few of the Leege (1984) recommendations that the Forest Plan says will be followed (Forest Plan 11-18 states use these guidelines to manage for and to assess the attainment of summer elk habitat objectives in project evaluation (see Appendix B of the Forest Plan). The Clear Creek project will violate the following examples of these guidelines:

- security is defined by the Hillis criteria of 250 contiguous acres of cover over 0.5 miles from an open road.

- a sight distance is 200 feet.

- the maximum width of openings will be 1,000 feet, and these will be bordered on all sides by cover of not less than 800 feet in width.

- provide adjacent security areas at least as large as the area being disturbed.

- don't log important elk habitat in the summer.

-don't disturb more than one area more than 2 years.

-maintain a minimum of a 300 foot buffer strip between open forest roads and openings that serve as feeding areas.

-install gates on roads where the public will be excluded, and these need to be locked for any period of logging inactivity over 24 hours.

-maintain buffer strips (hiding cover if possible) along roads left open during normal elk sue period, at least 400 feet if along openings.

-there will be no activity in elk calving and rearing areas during May 1-July 15.

-adequacy of security areas is when 20% qualifies as security with at least 60" qualifying as cover.

The Leege (1984) guidelines incorporated in the 1987 Forest Plan went through the public involvement process during forest planning. It is unknown if the deletion of these recommendations from the Forest Plan included any public involvement or analysis, as is required by the NFMA.

4. The Forest Plan direction for elk as per Management Areas is never identified or addressed in the Clear Creek Project, including for MS 16 for big game winter range, or Mas 20-21.

The Forest Plan includes specific direction for management of elk summer habitat per MA, defining the level of elk habitat potential that will be provided for per MA. These elk habitat potentials range from high (75%), moderate (50%) and low (25%). It is unknown what these standards are for Mas in the Clear Creek Project, or if they are being achieved. It is also unknown if these standards have been monitored in the Forest Plan Monitoring program, to measure if these are being met per MA. One example is MA 16, or big game winter range. There is no information provided as to whether this MA is meeting the standard for 75%, 50% and 25% habitat potentials. Thus the proposed logging and burning of big game winter range has not been evaluated as per this Forest Plan standard. As a result, the proposed logging and burning is in violation of the MA direction. This is also the case for MA 20 and 21. Management of winter range for habitat potential requires measuring the levels of hiding and thermal cover currently existing, and what is being proposed, along with documentation via Forest Plan monitoring and published research demonstrating these conditions address habitat potential levels.

5. The results of wildlife surveys for all the proposed logging and prescribed burning areas were never provided to the public, to demonstrate first that these have been done and included in project planning, and second, to demonstrate to the public how mitigation measures are being applied to protect a loss of reproductive efforts and reproductive habitat over time.

The Clear Creek Project clearly requires a massive survey effort for sensitive and MIS species in the 43,733 acre project area. For many species, such as the goshawk, these survey efforts require many years. For species as the flammulated owl, these survey efforts require great diligence to locate nest sit es. And for species as the boreal owl, survey efforts are required during winter/spring conditions that are also demanding. It is not possible for the agency to meet the requirements of the NFMA without completing high-quality surveys that have a high detection probability, if the agency is going to claim these species will be maintained in the project area. With so many acres to be treated, without surveys it is likely there could be severe impacts on many MIS and sensitive species, since suitable habitat is already limited due to past logging. AS per the current NEPA documents, the

agency has failed to demonstrate such surveys have been completed and coordinated with project designs. It is a violation of the NEPA for this decision to be implemented until survey results are provided to the public and coordination measures required for persistence of these species identified at locations where these species are identified.

6. The agency is violating the NEPA and the NFMA by failing to disclose the opening sizes that will be created by this project, including cumulative openings from adjacent units; the impacts of the large openings to be created has also not been evaluated or disclosed to the public; the public has not been provided a 60- day notice for openings over 40 acres, nor provided a 60-day comment period for openings over 40 acres.

There is no list of the openings that will be created for the Clear Creek Project. There is no map that displays openings over 40 acres. There is no analysis of how these openings will affect other resource values, including elk security, travel corridors for elk and moose, and old growth complexes, including designated replacement old growth. In particular, there is no analysis as to how large openings will impact 3 MIS for the forest, including the pileated woodpecker, the pine marten, and the goshawk. Openings remove habitat for all 3 MIS. The percent of habitat removed for these 3 MIS was not ever identified, as was the impact these large openings will have on habitat suitability for these MIS. The rationale for removing MIS habitat in order to create large openings was never provided to the public, as is required for these large openings, especially as there is a direct conflict between maintaining MIS habitat, including for elk, with large openings.

7. The impact of roads in elk displacement and elk vulnerability was never evaluated as per roads that will receive motorized use during project activities, not just roads open to the public; as well, there was no information provided on how road violations are affected habitat effectiveness for elk, as well as elk vulnerability; if roads are being illegally used in the hunting season, elk security areas are removed.

The Clear Creek Project Area is covered with roads, with many more planned. The agency did not define how all these existing and proposed roads are being controlled for illegal public motorized use, use that has a significant impact on elk and other wildlife. As such, there has been no accurate disclosure and analysis of either elk vulnerability or habitat effectiveness, including elk displacement to private lands in the hunting season. This is a violation of the NEPA, since this information is essential in order for the public to understand how elk are being managed in this landscape to maintain both summer and fall habitat use.

8. The proposed management of the threatened lynx is a violation of the ESA, NEPA and ESA. There are no recent valid surveys for lynx, even though camera surveys have proven to be cost effective and highly accurate for lynx surveys. The agency claims that this landscape is unoccupied by lynx, but cannot verify this claim with any recent valid surveys. Also, the WUI defined for the project area is invalid, which means that should lynx be present, the Lynx Amendment standards for maintain foraging habitat will be violated with logging these areas. If lynx are present, as well, the Lynx Amendment is a violation of the ESA by it's failure to incorporate the current best science for lynx conservation. Also, the programmatic Biological Opinion for lynx on the Nez Perce Forest is a violation of the ESA for failing to apply the current best science for lynx conservation.