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Comments: April 10, 2023

USDA Forest Service

Rio Grande National Forest

Attn: Dan Dallas, Reviewing Officer

1055 9th Street

Del Norte, CO 81132

Submitted electronically

Re: Cantonment Vegetation Management Project Objection

Forest Supervisor Dallas:

Defenders of Wildlife ("Defenders") submits this objection regarding the Cantonment Vegetation Management Project ("Cantonment Project" or "Project") in the Saguache Ranger District, for which the Rio Grande National Forest ("Forest") has recently released a Draft Decision Notice and Environmental Assessment/Finding of No Significant Impact ("EA/FONSI").

Before identifying our specific objections, we would like to acknowledge the modifications the Forest has made to the Project as originally proposed. Defenders appreciates the Forest's effort to remove from the Project all Timber Stand Improvement Units ("TSI Units") containing lynx habitat within the 4 Mile to La Garita Lynx Analysis Unit ("4 Mile LAU") and its imposition of additional restrictions on harvest in the portions of Commercial Harvest Units 3 and 4 adjacent to the Continental Divide. Defenders believes there remains room for improvement, and requests that you consider the following comments.

I. The Forest's Comment Process Inappropriately Limits Public Input, and Extension or Reopening of the Comment Period is Warranted

As a threshold matter, Defenders notes its concerns with the process the Forest uses to seek public input on vegetation management projects such as the Cantonment Project.

The Forest provided opportunity for public comment on the Project only at the scoping stage when limited information was available. The Forest did not make the draft environmental review available until after the

comment deadline, so commenters did not have access to full Project information or environmental review documents.

The next opportunity to submit comments came at this objection phase, when the Forest informed the public that draft decision documents, including the EA/FONSI, were being released for public review. But only parties who commented during the scoping period were allowed the benefit of commenting on these documents, because objections are only accepted "from those who previously submitted specific written comments." Legal Notice of Opportunity to Object, Feb. 24, 2023, at 1.

Moreover, at the objection phase, the Forest did not publish key documents cited in the decision documents and made a limited set of these documents available only at the very end of the objection period. Although the EA/FONSI cited the Wildlife Report, the Forest's Biological Assessment and the U.S. Fish & Wildlife Service's ("FWS") concurrence, none of these documents, which were finalized over four months before the publication of the decision documents, was initially published by the Forest. Instead, the Forest only published the Biological Assessment and FWS' concurrence on April 6, 2023, after Defenders submitted a request for these documents and two business days before the close of the objection period. To Defenders' knowledge, the Forest did not make copies of the Wildlife Report or Appendix A to the Biological Assessment available before the objection deadline.

As Defenders has noted multiple times in various comment letters, this process inappropriately limits opportunities for meaningful public review of, comment on, and objection to new projects. Under the process outlined above, the public must identify all issues for comment and objection at an early scoping stage when little information is available, and when, indeed, project implementation may change significantly. Otherwise, opportunities for objection may be foreclosed. In addition, the late release of key information seriously hampers the public's ability to fully review and comment on the Projects' most serious effects. This process inappropriately limits public input, and Defenders requests that the Forest provide more meaningful opportunities for public participation in future vegetation management project planning in the Forest. Further, in instances like this one in which the Forest posts critical wildlife documents only days before the end of the objection period, that period should be reopened and /or extended.

II. The Forest Should Confirm The Boundaries Of The 4 Mile LAU and Conduct Necessary Follow-Up Analysis

In response to a previous Freedom of Information Act request, the Forest provided Defenders with shape files depicting the boundaries of all lynx analysis units ("LAUs") in the Forest. Based upon those files obtained from the Forest, Defenders notes a discrepancy between the previously provided boundary of the 4 Mile LAU and the boundary as depicted in the Forest's Biological Assessment. Based on the previously provided shape file, it appears as if the entire Project is located within the 4 Mile LAU, but the Forest's depiction of the 4 Mile LAU suggests only a portion of the Project is located within the 4 Mile LAU. Compare Exhibit A with Biological Assessment, Fig. 7.

It is important to accurately reflect the 4 Mile LAU boundary for multiple reasons. First, the applicable tallies of impacted lynx habitat within the LAU may be understated if the LAU is inaccurately mapped, skewing analysis of the Project's effects. For example, Table 6 in the Biological Assessment reports "Lynx habitat acres affected by the proposed action within the 4 Mile to La Garita LAU." The possibility that the LAU boundaries are not accurately reflected raises questions about whether these figures are accurate. In addition, Table 9 in the Biological Assessment appears to assume that numerous harvest units are located outside the LAU, but the accuracy of this assessment is undermined by the apparent mapping discrepancy.

Second, under the Southern Rockies Lynx Amendment ("SRLA") and the Forest Plan, there are numerous

standards, objectives, and guidelines that are phrased in terms of the lynx habitat within an LAU. For instance, VEG S5 and VEG S6 could require additional modifications to the Project if, as is suggested by the previously provided LAU boundary, the entire Project is located within the 4 Mile LAU.

Third, it appears that the Forest has made a significant effort to avoid impacts to lynx habitat within the LAU boundaries that appear in the Biological Assessment by "dropping the proposed vegetative actions in lynx habitat within this LAU." Biological Assessment at 29. Defenders appreciates this modification, and it believes it could be built upon. Based upon any remapping, the Forest should consider whether to apply those same protections in the other harvest units as well (since, according to our mapping, all harvest units are within the 4 Mile LAU). The Forest must either apply the protections to all harvest units containing lynx habitat or explain why the protections are not needed in some harvest units containing lynx habitat, and must provide a rational and scientifically supported basis for any distinctions.

The Forest must confirm the precise boundary of the 4 Mile LAU. To the extent the depiction of the boundary of the 4 Mile LAU contained in the Biological Assessment is incorrect, additional analysis is needed to confirm the accuracy of the Forest's analysis of the extent of affected lynx habitat, as well as the Project's compliance with the relevant SRLA and Forest Plan objectives, guidelines, and standards. To the extent the depiction of the boundary of the 4 Mile LAU contained in the Biological Assessment is correct, Defenders requests an explanation why there may be discrepancies in the previously provided LAU boundary shape files. Without adequate additional analysis and resolution of this apparent discrepancy, the assessment of the Project's impacts on lynx habitat is arbitrary and reflects a failure to take a hard look at lynx habitat impacts. This mapping discrepancy was not noted in Defenders' original comment letter, but this objection is proper because the Biological Assessment was published well after the comment deadline and the mapping discrepancies could not have been noted in Defenders' original comment letter. 36 C.F.R. [sect] 218.8(d)(6).

III. The Forest Should Confirm That No Treatment Will Occur in TSI Units 5 and 6

In the EA/FONSI and the Biological Assessment, the Forest indicated that it did not intend to conduct any treatment in TSI Units containing lynx habitat within the 4 Mile LAU, including the entirety of TSI Units 5 and 6. Biological Assessment at 19, 23; EA/FONSI at 2, 3. But the Biological Assessment also implies that treatment may occur in TSI Units 5 and 6 by including those Units in its discussion of the limitations on treatment imposed by ALL O1. Biological Assessment at 34. potential inconsistency in the Biological Assessment's discussion of TSI Units 5 and 6 was not noted in Defenders' original comment letter, but this objection is proper because the EA/FONSI and Biological Assessment were published well after the comment deadline and the inconsistency could not have been noted in Defenders' original comment letter. 36 C.F.R. [sect] 218.8(d)(6).

IV. The Forest Should Fully Assess Lynx Habitat In the Analysis Unit

In the Biological Assessment, the Forest admits that "survey efforts have not been extensive enough to prove absence or presence" of lynx in the Analysis Unit, and that the recent spruce bark beetle epidemic adds additional uncertainty to the Forest's management of lynx habitat. Biological Assessment at 15, 16. Despite these acknowledged informational gaps, the Forest presumes the Analysis Unit contains low quality lynx habitat and, accordingly, lynx use of the Analysis Unit is only transitory. Biological Assessment at 16. The acknowledged information gap highlights an issue that Defenders has repeatedly raised, which is the failure, at the Plan level, to conduct a full analysis of lynx usage of this portion of the Forest. Such analysis has only been performed in the southern portion of the Forest based upon the predictive model developed by Dr. John Squires. Revised Forest Plan at 28. In the alternative, the Forest should analyze whether the project area contains "stands that represent high quality lynx habitat," consistent with the VEG S7 standard. Biological Assessment at 35. This analysis was not completed at the Plan level, and the project analysis documents do not indicate that the analysis has been done for this project, either. Instead, the Forest is assuming that no such habitat exists in the project area. This assumption is inappropriate.

The Biological Assessment also cites Theobald and Shenk (2011) as establishing that lynx do not use the Analysis area on a regular basis. Biological Assessment at Table 3, Fig. 5, 27. However, that study-published 12 years ago-aimed only to "describe an analysis of current habitat use" for collared lynx and explicitly not "to predict potential or future habitat use." Theobald & Shenk, 2011, at 1. Its usage for the cited purpose therefore is inappropriate and does not reflect the best available science. In addition, the use of the "lynx utilization distribution" from the 2011 paper (Biological Assessment at Figure 5) is inappropriate for the same reasons. Moreover, the Theobald and Shenk study warned that "even 'low' use areas provide important habitat." Theobald & Shenk, 2011, at 7. Therefore, to the extent that the study is relevant, its caution regarding the importance of even low-use areas must be fully analyzed, and the Project's consistency with that statement explained.

Defenders remains concerned that the LAUs in the northern portion of the Forest, including the 4 Mile LAU, were deemed to contain only "low use" lynx habitat (and stripped of SRLA protections such as VEG S1 and VEG S2) without adequate analysis or assessment. The Forest should conduct a full and adequate assessment of lynx usage of the northern areas, including the Analysis Unit. Defenders' objection regarding the nature of the analysis of lynx habitat contained in the Biological Assessment was not noted in Defenders' original comment letter, but this objection is proper because the Biological Assessment was published well after the comment deadline and these issues could not have been noted in Defenders' original comment letter. 36 C.F.R. [sect] 218.8(d)(6).

V. The Forest Should Adequately Explain How Impacts On Lynx Connectivity Will Be Avoided

The Cantonment Project abuts the North Pass/Cochetopa Hills Lynx Linkage Area ("North Pass LLA"). As the Forest acknowledged in its Biological Assessment, "[s]tudies have shown that Canada lynx likely travel through the North Pass Lynx Linkage Area on both sides of the Continental Divide." Biological Assessment at 27. And in its concurrence, FWS noted that the best lynx habitat in the Project area "is likely near the continental divide." FWS, Concurrence Letter, Oct. 14, 2022, at 2. Indeed, the Forest's Biological Assessment for the Project acknowledges that "lynx likely move through the Analysis area along the Continental Divide and through the North Pass/Cochetopa Hills Lynx Linkage Area." Biological Assessment at 16.

The North Pass LLA is critically important to Lynx connectivity in the Forest and beyond. According to FWS, one prominent researcher "considers the North Pass linkage one of the most important habitat connectivity areas in Colorado, because it facilitates lynx movement to and from the core area of the San Juan Mountains to areas in the remainder of the state, and beyond." FWS, Revised Biological Opinion, Feb. 2, 2021, at 16.

Given the significant connectivity provided by the North Pass LLA and the adjoining areas of the Continental Divide, it is not surprising that FWS suggested "avoiding suitable lynx habitat" in the action areas near the Continental Divide. FWS, Concurrence Letter, Oct. 4, 2022, at 2.

This recommendation is generally consistent with the Forest's Revised Forest Plan, which places a priority on habitat connectivity in the Forest. According to DC-WLDF-3, "Habitat connectivity is provided to facilitate species movement within and between daily home ranges, for seasonal movements, for genetic interchange, and for long-distance movements across boundaries." Revised Forest Plan at 41. And according to ALL O1, the Forest has an objective to "maintain or restore lynx habitat connectivity in and between LAUs, and in linkage areas." Revised Forest Plan at 204. Although the Forest eliminated proposed treatment on the North Pass LLA and the Project requires maintenance of 200-foot buffer strips in the portions of Commercial Harvest Units 3 and 4 adjacent to the Continental Divide, it offers no discussion or explanation regarding the basis for its determination that the proposed buffers will address the concern raised by FWS and satisfy the Forest's obligation to prioritize habitat connectivity on the Forest.

The Forest must explain and justify how its proposed prescriptive measures will mitigate the impacts of the Project on lynx connectivity. Without such an explanation, the selection of these measures appears arbitrary and

constitutes a failure to take a hard look at the impacts of the proposed Project on lynx habitat linkage. This objection is proper, because it is based upon Defenders' original comments regarding the need to comply with applicable portions of the Revised Forest Plan and SRLA. 36 C.F.R. [sect] 218.8(c). To the extent it expands upon Defenders' original comments, it is proper because the additional development of those comments is based upon the FWS' concurrence and the Forest's Biological Assessment, both of which were published well after the comment deadline. 36 C.F.R. [sect] 218.8(d)(6).

Defenders of Wildlife appreciates the opportunity to submit this letter. In addition, if any changes and/or additional analysis are prepared in response to this letter, Defenders respectfully requests an additional opportunity to comment on the proposed Project. If you have questions, please do not hesitate to contact us.

Sincerely,

/s/ Lauren McCain

Lauren McCain

Senior Federal Lands Policy Analyst

Defenders of Wildlife