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Comments:
August 5, 2025
Chad Benson
Kootenai National Forest
Attn: Libby Exploration Project
31374 US Highway 2
Libby, MT 59923

RE: Objection Libby Exploration Project

Objection Submitted Electronically:https://cara.fs2c.usda.gov/Public/CommentInput?Project=62833 and via email to appeals-northern-regional-office@usda.gov
Wilderness Watch submits this objection letter on the "Libby Exploration Project" as detailed in the environmental assessment (EA) and draft Decision Notice and Finding of No Significant Impact (hereinafter, DN /FONSI) pursuant to 36 C.F.R. § 218. Our objection is focused on the impacts to the Cabinet Mountains Wilderness. The responsible official for this project is Chad Benson, Forest Supervisor for the Kootenai National Forest. The project is scheduled to occur in the Cabinet Mountains Wilderness.

Wilderness Watch is a national wilderness advocacy organization, headquartered in Missoula, Montana, dedicated to the protection and proper administration of the National Wilderness Preservation System. Wilderness Watch members use and value, and will continue to use and value, the Cabinet Mountains Wilderness for personal and professional pursuits, including hiking, plant and wildlife viewing, and plant and wildlife study. Wilderness Watch members also value the Cabinet Mountains Wilderness for its own sake. Wilderness Watch members value knowing that Wilderness is protected as Congress intended, whether or not they ever set foot inside the Wilderness boundary. As more fully described below, the Forest Service's proposed action would adversely affect Wilderness Watch's organizational interests, as well as its members' use and enjoyment of the Wilderness.

Wilderness Watch submitted comments on the EA on February 9, 2025. These comments raised topics which are the subject of this objection. Further, we also include excerpts from our comment to illustrate the points that we raise in this objection. As such, our objection complies with pursuant to 36 C.F.R. § 218.

Sincerely,

Mason Parker
Wilderness Defense Director
masonp@wildernesswatch.org

Wilderness Analysis
Page 3-68 of the EA states, "The USFS manages wilderness areas to protect the four qualities of wilderness character based on Section 2I (sic) of the Wilderness Act: untrammeled, natural, undeveloped, and outstanding opportunities for solitude or a primitive and unconfined type of recreation." Aside from the fact there is no section 2I in the Wilderness Act, which we also noted in our comments, the conflation of wilderness character with

specific wilderness attributes is a serious misreading of the Act. Our comment stated:
"However, the Wilderness Act in section 2(c) does not state these attributes are the four qualities of wilderness character.
Rather, Peter Landres, working for the inter-agency Aldo Leopold Wilderness Research Institute, and some other agency wilderness personnel identified various attributes of wilderness character by dissecting the Wilderness Act. The Wilderness Act should be viewed as an organic whole. From our communications with Landres, the main purpose behind this exercise was to be able to objectively monitor changes in wilderness character in the National Wilderness Preservation System. Hence, the protocol titled Keeping it Wild and Keeping it Wild 2. While this process to define wilderness character was undoubtedly a well-intended effort, as time has passed, it is clear it has serious negative unintended consequences for Wilderness. Other wilderness specialists and researchers recognize these failings in their pointed critique (see Cole et al. 2015). One prime example of a negative consequence is the erroneous idea that managers could trade off various components of wilderness character against each other, thereby reducing the Wilderness Act into a procedural process via an MRAF, rather than a substantive law. This management mindset, which effectively repeals and rewrites the Wilderness Act, is a recent development. It is doubtful even those wilderness specialists who defined wilderness character in this reductionist manner would concur with how it has been used.
In other words, the fragmentation of the Wilderness Act into separate and supposedly competing directives has no basis in statute. That violates the laws of statutory construct. Regardless, the monitoring protocol is not to be used as a decision-making tool.
In essence, the agency's reliance on the Keeping it Wild 2 framework further demonstrates a misinterpretation of the Act's priorities. This framework has not undergone formal notice and comment rulemaking, which typically lends legal deference to an agency's interpretive framework. This framework promotes an interpretation of the Wilderness Act that is internally inconsistent and allows managers to weigh various components of wilderness character against each other rather than prioritizing the untrammeled quality. This approach reduces the Wilderness Act to a "point tallying system" rather than a substantive law with cohesive goals and stringent prohibitions. The absence of formal rulemaking for Keeping it Wild 2 weakens its legal standing, making it vulnerable to challenge as an arbitrary or unreasonable interpretation of the Wilderness Act's plain language and legislative intent.

We again refer you to the attached document, Cole et al. 2015. this demonstrates the problems with defining wilderness character in the way the Forest Service has done in this EA.

REMEDY: Withdraw the EA and draft DN/FONSI.

The EA and DN/FONSI Fail to Recognize the Project Would Occur in Wilderness

Our comments stated in reference to the Wilderness Act, "Also, the Act closed the National Wilderness Preservation System to appropriation under the mining laws on January 1, 1984. As such, the Act recognizes the subsurface as part of the Wilderness."

However, the DN/FONSI erroneously rejects the idea that Wilderness extends to the subsurface. Page 8 states, "The Proposed Action will not physically disturb any lands in the Cabinet Mountain Wilderness (CMW) directly, and none of the four wilderness qualities will be directly affected." Our comments provided more detail:

The Subsurface is Part of the Wilderness

The EA is misleading as to what happens in Wilderness. The Forest Service erroneously believes the Wilderness is only the surface and doesn't include the subsurface. See EA pages 3-66 to 3-70 and 3-87. If that were true, it begs the question as to how thick the Wilderness is: one millimeter, six feet, one thousand feet, or something else?

The EA (June 2025) persists in believing Wilderness is only skin deep, however deep the Forest Service that may be (once CM, ten feet?). For example, the map on page 3-69 shows only the small development at the surface outside the Wilderness, omitting the area where the development will occur. Also, page 3-71 states, "The Proposed Action would not physically disturb any lands in the CMW directly." What immediately follows that sentence in the EA suggests the agency recognizes there would also be direct impacts to the surface of the Wilderness from the development of part of the subsurface of the Wilderness in this proposal. The following section on Impacts to Wilderness addresses this concern.

In sum, the exclusion of the subsurface part of the Wilderness skews the entire wilderness analysis. This, in turn, leads to other problems as described in other objection points. As stated in our comments, "The EA's bifurcation of the surface as the Wilderness and subsurface as non-wilderness is illogical and has, in effect, evaded the kind of needed analysis of impacts to the Cabinet Mountains Wilderness."

REMEDY: Withdraw the EA and draft DN/FONSI.

Impacts to Wilderness

As noted in the previous section, the EA and DN/FONSI fail to recognize impacts to the Wilderness subsurface. While this exclusion alone is enough to withdraw the draft DN/FONSI, there are other errors in the analysis as well. Our comments stated:

A good example of the interconnectedness of the surface and subsurface is the hydrology of the Wilderness, including groundwater. The EA does recognize this issue and admits on page 3-20 that "the extension of the adit, the dewatering rate would increase to between 130 and 135 gpm." It should be noted that the proposed adit extension is all within the Wilderness. Further, Figure 3-5 clearly shows groundwater drawdown, including up to 500 feet near Libby Lakes. Yet, the analysis of impacts in the Wilderness sections (page 3-69), predicts there would be no impact to the groundwater in Wilderness, then predicts a temporary decline in Libby Creek followed by an increase. It then claims no impact or discernible impact on page 3-70. In essence, the analysis is not clear.

Even the EA tacitly admits there is a concern for surface water quality and/or quantity. Page 3-71 of the EA states:

The Proposed Action would not physically disturb any lands in the CMW directly. There would be no impact on the undeveloped quality of the wilderness. Existing data loggers are in lakes (Rock Lake, Wanless Lake, and Lower Libby Lake) and streams (the upper East Fork Bull River and upper East Fork Rock Creek). At closure, monitoring devices, such as data loggers, would be removed and monitoring activity in the CMW would cease. The undeveloped quality of the CMW would return to existing conditions.

If there is no impact, why were the data loggers placed in the Wilderness? This question was asked in our comments but we saw no response in the EA. This also raises the issue of structures in Wilderness, which we also raised in our comments. Specifically we asked:

If these data loggers are for this project, why are they already placed in the Wilderness? This puts the cart before the horse. NEPA analysis is supposed to be done before decisions are made and actions taken. Further, section 4(c) of the Wilderness Act prohibits any structures or installations in Wilderness with one very narrow exception. Those structures or installations must be the minimum necessary for the sole purpose of wilderness preservation. The EA has no other discussion about these data loggers. Thus, we don't know if they meet the requirements of the Wilderness Act.

What analysis determined that these data loggers were the minimum necessary for administration of the area as

Wilderness?

Are these data loggers for water quality, water quantity, or both?

Again, there was no response.

The EA does recognize an increase in noise from the proposal that would go into Wilderness, but downplays its impacts, claiming it would only be temporary (page 3-71). That misses two important points. Noise would not be temporary if another proposal for further exploration or a proposal for mine development resulted from this project. Indeed, that is the goal of the proposal. Also, the impacts from noise are not just from the surface disturbance of the adit entrance and associated activities along the road. We asked in our comments:

The EA recognizes that noise outside of the Wilderness could have a negative effect inside the Wilderness though those negative effects are downplayed. What is not considered are any potential impacts from the work inside the Wilderness. Would noise or ground vibrations be felt or detected by visitors or wildlife due to the 4200 feet of adit that would be built and the drilling that would take place in the Wilderness? Also, the work on the new adit drives the entire proposal. All impacts stem from this work in the Wilderness.

The EA on page 2-10 indicates that drilling could occur closer to the surface than 500 feet, with Forest Service permission. There is no indication if this would require a new EA or if the FS would simply decide to allow it without informing the public or doing any additional public review and analysis?

There are two issues here. What about the vibrations that affect wildlife, including burrowing animals from the activity in the Wilderness subsurface? What about the possibility of having drilling occur closer to the surface than the EA projects? Neither of these concerns are addressed in the EA.

The EA ignores cumulative impacts on page 3-88, dismissing any foreseeable impacts to the Cabinet Mountains Wilderness from mineral development even though this proposal is part of the larger proposed Rock Creek Mine development. It begs the question if mine development is not the goal of this project, then why do it? As our comments stated, "The EA ignores the fact that connected actions may occur. The goal of this exploration is to develop minerals within the Wilderness. Indeed, Wilderness is where the new adit extension and the drilling will be done." Since the same parent company is involved in this proposal and the proposed Rock Creek Mine, and the extension of the adits go under the Rock Creek drainage, this should have been considered.

The failure to adequately analyze the proposed adit is also troubling because, as our comments stated, the "drilling is within the wildest part of the Wilderness under the wilderness management plan, opportunity class 1." We would like to reiterate this statement from our comment:

In sum, the EA has failed to adequately analyze the impacts to Wilderness by defining the project area as essentially limited to the private land holdings outside of the Wilderness along Libby Creek. This ignores the fact that the proposed adit and associated drilling, which occurs completely within the Wilderness, drives everything else. Every other activity in the proposal is dependent on this step.

Lastly, as we have shown above, the impacts to subsurface groundwater are hydrologically connected to the surface, as is the potential for other reverberating impacts. However, it should be highlighted that an area's protections under the Wilderness Act extend far below the surface, as deep as the Federal estate. Therefore, anything that is disturbed beneath the surface of the Wilderness is also a disturbance to the Wilderness itself and should be considered as such, through the lens of both the law and management. Nothing in section 4(d)(2), the mining provision of the Wilderness Act, indicates that Congress intended for the subsurface to fall outside of the Wilderness area. Even if the minerals beneath the surface are patented or privately owned, they must be treated as a subsurface inholding, meaning that the patent holder cannot disturb the surrounding Wilderness area. The

EA fails to analyze the impacts of the project through this lens, focusing solely on the impacts to the surface of the Wilderness, while ignoring potential impacts on the subsurface of the Cabinet Mountains Wilderness.

REMEDY: Withdraw the EA and DN/FONSI.

Mining Claims

The EA in Appendix E, page 60 states, "MMC's valid existing rights were established prior to wilderness designation." We assume this was in response to comments, likely from several sources, asking about validity. For example, we stated, "Before approving the plan of operations, the agency is obligated to ensure that the public's resources are not being jeopardized by actions pursuant to invalid mining claims." We then followed with a discussion on this important topic. There is no explanation of how long these claims were held, whether annual assessment work was done, or any claim history.

REMEDY: Include a full accounting of the claims and their history.

Need for an EIS

Our comments stated:

Given the long lasting nature of this proposal (over a decade) and the fact it is connected to the development of a large mine in the Cabinet Mountains Wilderness (Rock Creek), an EIS is necessary. The EA does not fully analyze the cumulative impacts and largely ignores connected actions from this development. The area to be explored by this proposal is in the Wilderness, not outside.

The above objection points all demonstrate the inadequacy of the EA and the DN/FONSI. An EIS is needed.

REMEDY: Withdraw the EA and DN/FONSI