August 15, 2019

Sent via email to: appeals-northern-regional-office@fs.fed.us

To: Objection Reviewing Officer
USDA Forest Service Northern Region
26 Fort Missoula Road
Missoula, MT 59804

Pursuant to 36 CFR Part 218, Friends of the Clearwater (FOC), the Alliance for the Wild Rockies (AWR) and Kootenai Environmental Alliance (KEA) file this Objection to the Environmental Assessment and Draft Decision Notice for the Brebner Flat Project. This timber sale is proposed for the St. Joe Ranger District on the Idaho Panhandle National Forests (IPNF) and the Responsible Official is Forest Supervisor Jeanne M. Higgins.

The Draft DN's selected alternative is the Proposed Action, and is described in the EA. It includes vegetation management activities and road management activities. Vegetation management activities include 1719 acres of commercial logging. Road management activities include construction of both new permanent (about 2 miles) and temporary roads (about 4 miles).

Pursuant to Part 218, FOC is the lead objector. Contact Person: Gary Macfarlane, FOC Ecosystem Defense Director, P.O. Box 9241, Moscow, ID 83843 (209-882-9755). Attachments, references and other incorporated documents are included on the data CD with the version sent to the Forest Service (FS) via US mail postmarked this date.

We would like to meet and discuss all of the objection points as anything less won't resolve them all. Please let us know if you are amendable to meet with us.

We request to be notified by mail and by email (gary@friendsoftheclearwater.org, katie@friendsoftheclearwater.org) of any actions associated with the Brebner Flat project, including further hearings or further comment periods, in accordance with 40 C.F.R. § 1506.6.

Thank you for considering our objection points.

Sincerely,

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Objection 1 Failure to Comply with NEPA: Public Comments

FOC, AWR and KEA provided detailed comments on the EA. The DN claims:

> The EA was completed and released to the public in March 2019. A legal notice was published in the Coeur d'Alene Press on March 15, 2019. The St Maries Gazette, Spokesmen Review and the Coeur d'Alene Press had an article that the Forest Service was seeking comments on the proposed Brebner Flat project. W*e received seven letters from interested parties. The interdisciplinary team conducted a thorough analysis of the comments and prepared responses to each one (see the Idaho Panhandle National Forests website). The EA was updated to clarify information in response to the comments*. Based on a review of the comments, I concluded that there were no substantive issues that weren't already considered and addressed.

DN at 7, emphasis added.. Nowhere on the IPNF's website is there any response to comments. The attached screen shots verify this fact. The updated EA referred to in the above paragraph has only one page on which pubic comments are mentioned. The updated (June 2019) EA, which was done after public comments were submitted, states:

> We notified the public, local governments, organizations, agencies, and Tribes of our proposal in February 2018 through mailings, a legal ad, newspaper articles, and meetings. Copies of the scoping letter, legal ad, and other materials are provided on the project webpage at https://www.fs.usda.gov/project/?project=53048. We received comments from Idaho Department of Parks and Recreation, Idaho Department of Lands, Idaho Department of Fish and Game, Shoshone Benewah Forest Health Collaborative, Benewah County, American Forest Resource Council, Idaho Forest Group, The Idaho Conservation League, the Kootenai Environmental Alliance and six members of the public.
>
> Comments received during our initial public comment period (also referred to as "scoping") shared opinions that included, the national forest should not be actively managed, but be left to self-manage, that national forests should be actively managed to increase timber harvest, and that management of national forest land should not reduce elk security.
>
> Based on comments received on our proposed action, we determined there were no issues raised that resulted in development of additional alternatives due to unresolved conflicts. Therefore, we are analyzing the effects of no action and the

proposed action on resources of concern in the Brebner Flat project area.

EA at 6. Thus, there is no consideration given to the public comments submitted on the EA.

Further, since we have no idea if or how our EA comments were considered, it makes it difficult to address substantive issues we have with the DN and updated EA. As such, we are resubmitting our EA comments as Objection Point 2 with various remedies.

We still consider our science to be the best available science.

We would note here that this procedural NEPA violation prejudices us because it gives us little direction in our objection other than to reintroduce the comments that you already have. Without knowing which of our comments you have addressed or outright dismissed in updating the EA, you have frustrated our right to introduce science or arguments to rebut the rationale and supporting documentation that lead to the draft decision before us.

Remedy:

Withdraw the DN and reissue a new EA that includes consideration of public comments on the EA.

Objection Point 2: Our EA Comments

The substance of our comments stated:

> We have some serious questions and concerns about the proposal. We appreciate the decision to allow the public to provide input on an Environmental Assessment for a project that "will be completed using the authority of the Healthy Forests Restoration Act of 2003, Public Law 108-48, as amended by the 2014 Farm Bill, section 8204." Nonetheless, we question the applicability of using this law for this proposed timber sale. We encourage you to withdraw this project and rescope it under the normal NEPA process with more than one action alternative.
>
> We have provided what we consider to be the best available science in our comments. If you are relying on other science, please explain why and cite that science specifically so we may review it.
>
> As an initial note, we noted that you posted a project-file record with most specialist reports. We applaud this, as the specialist reports have more information than the EA does, so it certainly helps us understand the project in more detail. We did notice, however, that the design features reference the fuels report, which appears to be missing from the specialists' reports; the aquatics/fisheries report seems to be missing was well. Without these, there hasn't been full disclosure of a high quality of information required under NEPA,

and we have been prejudiced from fully informed comments on these issues.

We also noticed that this area is within the Coeur d'Alene Tribes aboriginal territory. Have you consulted with the Tribe on historic properties pursuant to the National Historic Preservation Act?

CONSISTENCY WITH THE HEALTHY FORESTS RESTORATION ACT

The Forest Service has stated that it is doing this project under the authority under the Farm Bill amendments to the Healthy Forests Restoration Act (HFRA). The 2014 Farm Bill amendments are codified under HFRA at 16 U.S.C. § 6591a and 6591b.

The EA is lacking information on this designated treatment area under the Farm Bill. We understand that it was part of the treatment areas that the governor initially requested. But, the percent recently impacted by insect and disease is 0.7 percent, which does not match the assertion made throughout this EA. *See* Idaho Department of Lands and USDA Forest Service, *Designation of Treatment Areas in National Forests of Idaho* p. 7 (Mar. 28, 2014). What does the table is this document mean by "recently impacted by insect and disease"? What insects and diseases did that document mean to identify? What did you define as "recent"?

Also, the "percent of forest at future *risk*" was rated at 56.9 percent for insects and disease. Does the risk calculation include all insects, all diseases, and all tree species impacted? And is this risk for what—acreage affected? How many trees must be infected with mountain pine beetle an insect for the Forest Service to consider an entire acre of trees to be impacted by that insect? If one tree is affected by a root disease, what is the risk that the trees surrounding that one tree will be affected? What is the risk of tree mortality for the root diseases and mountain pine beetle that were mentioned to be issues in the EA? We would like a detailed explanation of how this risk was calculated and for what it was calculated in this treatment area when it was proposed by the governor.

Insects and diseases have always existed because, in addition to fire, this is how forests renew themselves. How does the percent of forest at future risk compare with the baseline? Please disclose the information you have on the baseline incidence of insect and disease infestation in this identified treatment area of the Idaho Panhandle National Forest. Have you separated out that baseline incidence between insect infestations and disease, between types of insect infestations, and between tree species, or is this one all-encompassing number? We assume you are calculating this risk from 2013 until 2027—is that correct? How has the risk played out from 2013 until now? Please provide maps to the of the 2013-2027 NIDRM for the Brebner Flat treatment area. And please describe why this area is a risk, because when we look at the maps in the

supporting documentation for this requested treatment area, we see little difference.

Please describe how this project maximizes retention of old-growth and large trees that are resilient to insects and disease and why the species you have selected are appropriate for this forest type.

As discussed below, there are parameters of the Brebner Flat project that exceed the restrictions imposed by the statute, thus your proposal is violating HFRA.

The Forest Service cannot establish permanent roads under the HFRA authority

Building new roads and adding nonsystem roads to the National Forest System both constitute establishing permanent roads. The Farm Bill amendment to HFRA prohibits establishing permanent roads. "A project under this section shall not include the establishment of permanent roads." 16 U.S.C. § 6591b(c)(3)(A). "Shall not" is mandatory language. As the Forest stated on pages 10-11 on the EA that it would be constructing approximately 2.04 miles of new road and adding one mile of nonsystem road:

Approximately 2 miles of new road construction would occur with four new roads to facilitate the safe and efficient haul of logs from the proposed treatment areas. The new roads are each under 1 mile in length. After planting is complete in the harvest units, the roads would be hydrologically stabilized and stored for future administrative use. New permanent roads would be accessible for administrative motorized use only and would be closed to public motorized use with gates or barriers.

In addition, 1 mile of nonsystem road segments in the project area would be used for the project and then added to the National Forest Transportation System. Of these segments, one would remain open, one would be stored for future use, and two would be closed with a gate.

Because these roads are not maintenance or repairs on existing permanent roads, none of these roads are permitted for a project under 16 U.S.C. §6591a and 6591b. Because HFRA prohibits the establishment of permanent roads and you are authorizing this project under HFRA, you cannot construct new roads or add nonsystem road segments to the National Forest Transportation System without violating the statute.

Temporary roads have a timeline by which they must be decommissioned under HFRA

We made a good-faith effort to search the EA and could not find any timeline for the decommissioning of proposed temporary roads for the Brebner Flat project. The codified Farm Bill imposes a timeline for decommissioning temporary roads: "The Secretary shall decommission any temporary road constructed under a project under this section not later than 3 years after the date on which the project is completed." 16 U.S.C. § 6591b. Please consider this HFRA requirement as you move forward and incorporate it into your analysis.

HIGHLY CONTROVERSIAL ASSUMPTIONS OF LOGGING TO REDUCE WILDFIRE/INCREASE FOREST HEALTH AND DESIRED OUTCOMES HIGHLY UNCERTAIN

Various assumptions that the Forest Service is making about fire drivers and fire ecology are not supported by the best available science. Because the scientific controversy is so fundamental and everything the Forest Service proposed is based on this controversy, an EIS must be prepared for this project.

Two stated needs for this proposal is not based on the best available science and are highly controversial. One need the Forest Service has stated as a focus for the project is to "Reduce hazardous fuels to lessen the severity of wildfires and to enable safe fire suppression efforts." EA p. 3. But it is weather and climate that primarily drives fire behavior, not hazardous fuels. Schoennagel et al. (2017); Whitlock, C. et al. 2015. If weather and climate drive fire, logging is not going to mitigate this primary driver.

In fact, recent science and even the Forest Service's own admissions in this project suggest that vegetation management will not accomplish the stated focus of the project to lessen the severity of wildfires. First, recent science has debunked the myth that no management corresponds to higher fire severity. Bradley et al (2016). According to Bradley et al., not only did areas that did not have vegetation management—such as roadless areas or areas of older growth—did *not* show an increase in fire severity, but the researchers found the opposite to be true: "[B]urn severity tended to be higher in areas with lower levels of protection status (more intense management), after accounting for topographic and climatic conditions in all three model runs." Bradley et al. (2016). Naturally occurring high-intensity fire is the exception, and not the rule. Hanson (2010) pp. 12. Forests in the western United States have not experienced more fires as a direct result of bark beetle activity—Hart et al. (2015) found that mountain pine beetles and fire activity have ach independently increased due to warmer temperatures, but mountain pine beetles have not caused the increase in fire activity. In sum, the better available science shows that mountain pine beetle outbreaks are not causing a "hazardous fuels" buildup and "hazardous fuels" do not cause increased fire severity, so the best available science shows that this project will neither reduce hazardous fuels or lessen the severity of wildfires, and may actually have the opposite effect. This needs to be examined and discussed

with the best available science in an EIS, or the Forest Service should simply withdraw this project.

Science and the Forest Service's own admissions demonstrate that achieving the focus of improving forest health with this project is also highly uncertain and controversial. Another focus of the project is to [i]mprove forest health and increase vegetation resilience to large disturbances such as severe fire and insect or disease outbreaks. EA p. 3. The Forest Service blames fire suppression, white pine blister rust, and past management practices for the areas where logging is planned and suggests that those areas are unhealthy. EA p. 3. But without referencing actual instances of where the Forest Service has suppressed fire in the proposed logging units, that is a general statement not specifically applicable to this project—it could very well be within a natural fire cycle. Additionally, the past management practices that the Forest Service asserts contributes to the current condition surrounding the area it wants to log appears to be because of regeneration harvest in the area. *See* Silviculture Report (citing to "logging using a regeneration harvest prescription" that has created a "fragmented forest landscape"). The Forest Service has asserted that "[e]vidence of past management activities vary across the landscape, but are generally more noticeable in this management area than others." EA p. 3. Notably, the Forest Service also has asserted that there is a real issue with insect and disease here. Given regeneration harvest has partially created the current condition, proposing more regeneration harvest to improve the current condition is, minimally, highly uncertain. This needs to be explained with the science upon which the Forest Service is relying and the monitoring that has come out of previous projects that can support that this is a valid assumption.

Science suggests that there are far too few large dead trees to maintain ecologically healthy forests. Hanson (2010) pp. 19-20 (citing Rocca and Romme 2009, Romme et al. 1986). Wildfire, insects, and disease will create the dead trees, so allowing these disturbance events, whether they happen in a short, intense time frame or a longer time frame, to continue is going to be the best route for ecologically healthy forests.

High intensity fires are a historical fact in this area. Hanson (2010) p. 14. Even the Brebner Flat Silviculture Report acknowledges this. But, the Silviculture Report (p. 8) discusses the 1910 stand-replacing fire and then charges that since then the decades of fire suppression, timber harvest, and diseases has changed forest development. This is misleading, as moderate and high-severity fire rotations span centuries (at least 200 years) in western North America, Odion et al. (2014), Baker et al. 2007, so controversial science suggests this area may be within a historical range—it is possible not to see a fire rotation on an area of forest play out in a human lifetime.

The final focus of this project, to "[p]rovide sustainable use of natural resources and benefits for local communities," EA p. 3, is entirely inappropriate

for the 2014 Farm Bill amendment under the Healthy Forest Restorations Act as this is not a contemplated reason for authorizing a project.

In addition to unsound science informing the need and foci of this project, the Forest Service is not adequately taking a look at the positive impacts of a no-action alternative and the negative impacts of the action alternative in terms of the benefit that wildfires, even patches considered to be "high severity," provide should the project achieve the aim that the Forest Service is asserting. Choosing the action alternative will have environmental ramification of eliminating the role that wildfire plays, and this was not adequately addressed in the EA. For the benefits of fire, please consider Hanson (2010):

• High-intensity fire patches create snag-forest habitats, and some of the highest levels of native biodiversity occur in these areas. Hanson (2010) pp. 7-11 (citing Lindenmayer and Franklin (2002), Noss et al. (2006), Hutto (2008))

• "Forest growth and regeneration is vigorous after high-intensity fire...[where] post-fire conifer regeneration does not quickly occur, these areas provide important montane chaparral habitat, which has declined due to fire suppression." Hanson (2010) pp. 13. Fire puts nutrients in the soil that logging cannot.

The Forest Service has not discussed the environmental ramification of eliminating the role that fire or beetles play in making ecosystems healthy. The science we have cited renders the Forest Service's assumptions controversial, and the agency must address this. Acreage of severe wildfires are necessary for forests in this area of the country and the Forest Service has not adequately discussed the environmental ramifications of eliminating such fires. For these reasons, we encourage you to be great stewards of the forest by dropping this project. Alternative, we encourage that you take a hard look at all of these points in an EIS.

VEGETATION ASSUMPTIONS/OLD GROWTH/WILDLIFE

Vegetation

The purpose and need for the timber sale are not supported by the EA and associated materials regarding vegetation. The EA gives a chart from the Forest Plan FEIS for the entire forest in terms of Desired Conditions (DCs), not this project area. EA at 4. For example, the chart (warm moist) shows Douglas fir forests at 30% forest wide (greater than the desired condition) yet the project area is at 7.3%, well below the DC. EA at 14. In spite of this fact, the proposal is to remove 135 acres of Douglas fir forests, taking it further away from DCs. Ibid. Another problem is the charts from the forest plan referenced in the purpose and

need are silent on lodgepole or ponderosa, neither of which occur in the warm/moist forest type according to the chart. Yet, the goal of this timber sale is to reduce lodgepole pine and produce more ponderosa pine. This is a tacit admission that the overly prescriptive yet overly general DCs in the forest plan don't match what is really on the ground.[1, 2]

The age classes and species composition need to be analyzed from a cumulative effects perspective to comply with NEPA. The project area is surrounded by lands in early-seral stages due to massive logging. This is not represented in the EA.

Regarding the large age class, the EA is also off base. The proposal would even eliminate some acres you have classified in the large age class, the EA does shows that it would reduce this age class from nearly 24% to 23%.[3] EA at 16. The project area is currently below the Forest Plan DC of a minimum of 30% for this age-class. EA at page 5. In addition, there is no identification or quantification of the stands that might become older forests in the future, merely an allegation that such stands (if they indeed exist) would be protected. This does not maximize the retention of old-growth and large trees.

There is also no indication whether the required monitoring for vegetation (including old growth) has taken place or the results of that monitoring. See the Forest Plan on pages 101 to 107. Opening size is another problem. EA at 8 and 9. The opening sizes well exceed regional standards. Even the Forest Plan recognizes it must comply with NFMA in terms of monitoring (see MON-TBR-02-01). Forest Plan at 106.

Moist forests are dense

The fact that these forest types (warm/moist) always had high densities of trees is well documented by Haig (1932) in his description of the white pine type years ago and long before the effects of fire suppression was considered a major issue. He reported "The extremely rapid decrease in number of trees with increasing age is strikingly apparent. On good sites (site index 60) the total number of trees per acre drops from 4,700 at 20 years to 720 at 80 years, and to 390 at 120 years. The number of trees also decreases rapidly with increase in site index." On excellent sites (Site index 70) Haig found an average of 2,800 trees

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[1] Indeed, the desired conditions in the plan and this proposal are not supported by either the best available science or common sense. For example, white pine is not resilient because of blister rust. Cedar is very disease resistant.

[2] Regardless of the Forest Service's preference for early-seral species—a preference that is apparently only due to the fact that having a goal for widespread species composition changes means drastically increased logging—and regardless of the fact these species tend not to create needed snags and cavities for wildlife to the degree that later seral species do, the Forest Plan does not mandate this occur at the expense of old growth or that habitat.

[3] See also the section of old growth and the section that deals with the requirements of the Farm Bill in terms of retaining old trees.

per acre over a diameter of 0.6 inches in diameter at 20 years of age, on fair sites (site index 50) Haig's tables show approximately 7,800 trees per acre over a diameter of 0.6 inches DBH at age 20 and on poor sites (Site Index 40) he found an 11,500 trees per acre at age 20.

Also, we do not agree that the new stands will be more resistant and be able to respond after disturbance. For example, overstory and understory components of cedar are likely present even if the stands are currently in grand fir cover types. Advanced regeneration of cedar is also highly likely since the stands all occur on cedar habitat types. As grand fir dies it is likely to be gradually replaced by cedar, which would be the natural progression in these habitat types. Western red cedar is one of the longest-lived and most resilient species found on the Idaho Panhandle National Forests. The species has fewer problems with insects and disease than almost any tree species found on the Forests. Thus, the stands are likely to become more stable over time as cedar gradually replaces grand fir. Regeneration logging will only serve to "short stop" this natural ecological process.

Stands composed of ponderosa pine, white pine and larch that the Forest Service asserts would be more resilient in this setting seems to have very little scientific rigor; it is much more likely that the existing stands of grand fir and cedar will be more resilient. First, white pine is subject to an introduced pathogen that has resulted in catastrophic losses across the species range and we don't know how that pathogen might respond to future events. Mutations of blister rust are much more likely in a stressed environment than the tree's ability to respond to that change. Second, ponderosa pine is likely to be outcompeted in these moist habitat types and more shade tolerate species like grand fir have already done this in most moist habitats on the Forest. If individual grand fir trees do die, they will likely be quickly replaced by new grand fir or cedar trees. If individual ponderosa pine, white pine and western larch trees die, tolerant grand fir and cedar will likely replace them.

Thus, we disagree with the EA conclusions that existing grand fir/cedar stands are highly unstable and ready to self-destruct even if the existing cover type is grand fir. These stands are likely transitioning to more stable cedar communities, and we suspect they will remain fairly stable for long time frames in these moist habitat types. Such stands can provide important wildlife habitat for species like moose, fisher, pileated woodpecker, black-backed woodpecker and other species associated with snags, downed wood and older forests. Grand fir and Douglas fir (on southerly aspects) are very common cover types on the Idaho Panhandle National Forests for a reason. Thus, we object to the conclusion that fire suppression has caused an unnatural expansion of grand fir and Douglas-fir across the project area and that these stands need to be regenerated for ecological reasons (see Baker et al. 2007).

Old growth

Regarding old growth Zack et al. (1997) state:

Desired condition maintains **30% total mature and old forest** on National Forest lands, assessed at the scale of the entire National Forests ownership in the Coeur d'Alene Geographic Area. Desired future condition is **15% mature forest and 15% old forest**. **However, since there is not currently that much old forest, a compensating amount of mature forest will be designated as replacement old forest.**

The absence of any analysis about the current conditions of old growth, either in the project area or the entire Forest, is problematic. We are told "Given the high amount of openings within and just outside the project area, it is likely the Brebner Flat project area is at best a low quality fisher home range (WL16)." Wildlife Report at C-5. The area already has considerable openings and a dearth of older trees. Given the Forest Service's dogma that logging prevents disease, fires and insects, and the openings are due to logging, we have to ask why is there a need to log more?[4]

Taking this issue further, the Forest Plan has a desired condition for this geographic area "Low levels of human disturbance allows for denning activities of wide-ranging carnivores that are sensitive to human disturbance." You are not allowing for fisher habitat by further reducing the amount of forest and increasing the amount and size of openings. It is the warm/moist type where fishers occur most frequently.

The EA alleges, "Over time, mountain pine beetles and root diseases reduce canopy cover and it is unlikely that most of the mid-seral stands will reach an old growth condition or maintain it for a long period of time." EA at 4. There are two problems with that statement. Firstly, logging as proposed in mid-seral stands will assure they never reach an old growth condition. Secondly, decadence and rot, caused by disease, are some of the defining characteristics of old growth according to Green et al. When beetles and fire infect areas, these natural disturbance regimes create heterogenity:

[M]ost natural disturbances leave traces and features of the original stand in the form of *biological legacies*. Biological legacies are organisms, organically derived structures, and organically produced patterns that persist from the predisturbance ecosystem []. and they include logs, intact thickets of understory vegetation, large living trees, and snags. Even intense catastrophic disturbances...can leave enormous numbers and varieties of biological legacies.

Lindenmayer and Franklin 2002 at pp. 56-59. Biological legacies are the prelude to old-growth. They not only survive, but they regenerate, they assist

[4] See also the discussion above on old growth.

other species with persisting, they provide habitat for species that will eventually recolonize disturbed areas, they influence patters of recolonization, they provide energy and nutrients for other organisms, and they can stabilize soil and microbes in a recovering stand. *Id.* at 58. Regeneration cuts (clearcutting, shelterwood cutting, and seed-tree cutting) do none of that and will eliminate all of these benefits, which has not been discussed. This project will eliminate any biological legacies that beetle kill or a future fire will provide. As such, the EA is setting up circumstances that will assure old growth conditions are never met. *See* USDA Pacific Northwest Research Station 2003.

Rather than recognize the best available science or even comply with the Forest Plan, which has serious scientific deficiencies, the Forest Service is picking and choosing what DCs to achieve in terms of vegetation. Species dependent upon old forests and the tree species composition that lead to better habitat—softer wood in later seral species that allows the creation of cavities—are harmed by the approach to radically alter tree species composition.

Based on these comments in the two sections above, the proposal does not seem to be maximizing the retention of old-growth and large trees as appropriate for forest type. Please analyze this discrepancy.

Wildlife

Fisher

The exclusion of fisher is problematic. The wildlife report engages in a strange discussion saying that there is no old growth in the area adequate to support fishers, but then alleges fishers really are not dependent on old growth. Wildlife Report and C-4 and C-5.[5]

Harlequin duck

The harlequin duck discussion is also strange. The Wildlife Report states:

There are no recent harlequin duck observations in this part of the District. The creeks located within the project area are likely too small to provide suitable harlequin duck habitat and the St. Joe River lacks the habitat characteristics required for harlequin ducks. In addition, there is a large amount of human activity along the St. Joe River and harlequin ducks are sensitive to this type of activity. With no potential habitat for harlequin ducks in the project area, the Brebner Flats Project would have no impact on harlequin ducks or their habitat, and no further analysis and discussion is necessary.

Wildlife Report at C-11. Oddly, just across the Saint Joe River from the project area is a display about harlequin ducks on the Saint Joe River. The attached photo is of a harlequin juvenile taken upstream of the project area on the

[5] Sauder's work, cited in the Wildlife Report, seems to support the contention that fishers need old growth. The Wildlife Report seems to have poorly communicated the fact fishers will occasionally use other habitats, but show a clear preference for old and mature forests.

St. Joe River.

Elk

Regarding elk security, the Forest Service cannot amend a forest plan under the 2014 Farm Bill amendment to the Healthy Forest Restoration Act, so we think the decision to abandon that route was a wise decision. However, there are problems with the alternative you have chosen instead of amending the Forest Plan.

The EA and supporting documentation admit have admitted that there is a level of ineffectiveness of current gate closures and areas where gate closures are breached.[6] There is a need to consider that this is a possibility, so the elk security measures that you are looking to adopt in lieu of forest plan amendment are not going to be effective and the forest plan's elk security goals and standards will not be met.

The other Elk Security measure would also likely be ineffective—closing one mile of trail in what is apparently the middle of the route.[7] Those on the open portion of the trail are unlikely to notice or comply when the closure is such a distance from the trail origin.

Black-backed woodpecker

The Forest Service needs to consider potential impacts to the black-backed woodpecker. In the Wildlife Report at page 11, the specialist listed a table with the name of the species, the habitat, and the rationale for elimination from detailed analysis. For the black-backed woodpecker, the habitat is acknowledged as "The presence of bark-beetle outbreaks and post-fire areas in forested habitats." The specialized rationalized eliminating this from detailed analysis with the following rationale. "No immediate post-fire habitat or areas of extensive insect infestation proposed for treatment." Wildlife Report, p. 11. This completely conflicts with the EA, which acknowledges that "overmature lodgepole pine

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[6] Road Decommissioning (Wildlife Report pp. 17-18): Roads proposed for decommissioning are currently gated and incorporated into current condition and existing levels of elk security. This would not affect elk security but should increase the effectiveness of current gate closures, potentially leading to a decrease in hunting pressure in areas where gate closures are breached.

[7] EA p. 12: Motorized Trail System: Motorized trail 1956E is outside the project area boundary but within Elk Management Unit 7-6, which encompasses the project boundary. The motorized trail, which is designed for off-highway vehicles less than 50 inches in width, would change from no timing restrictions to a seasonal restriction of use between September 3 and December 16 each year to enhance elk security. The restriction would apply between milepost 11.2 and 12.3 for a total of 1.07 miles of trail affected. The trail would be signed during the seasonal restriction.

stands that are infested by (or are considered at high risk for) mountain pine beetle: a trend that is expected to continue into the near future." EA p. 4. The EA paints this as more of a current infestation than a "high risk," predicting, "Insect and disease and stands would increase..." EA p. 7. Additionally, the EA asserts that "Timber harvest would occur in stands where species of trees most susceptible to root disease and insect infestations are dominant." EA p. 7. So, it would appear that the logging directly impacts black-backed woodpecker habitat. The author of the wildlife report contradicts himself and confirms this in Appendix C: "Suitable black-back woodpecker habitat now exists within the Brebner Flats project area as a result of insect infestations and other tree mortality...." EA p. C-8 through C-9.

The Rationale in Appendix C of the Wildlife Report denotes entirely different reasons for eliminating any meaningful analysis of impacts to the black-backed woodpecker. The reason identified in Appendix C for eliminating any analysis for the black-backed woodpecker is based on the presence of other habitat outside of the project area on the forest. Specifically, the specialist noted,

> On a broader scale, 12,000 acres of forest burned on the St. Joe District in 2015, creating a high potential for BBWP in areas where severe fires occurred (Hutto 2008). Cumulatively, over the ten-year period from 2003 to 2012, timber harvest in Northern Region averaged 1,650 acres per year. During a similar ten-year period (2004 to 2013), an average of 201,643 acres per year were affected by wildfire in the Region, reflecting the fact that BBWP habitat is being created faster than what is being removed.

Brebner Flat Wildlife Report p. C-9. But, the Appendix also acknowledged that black-backed woodpeckers are specialists and have been known to use three types of forested habitat:

> 1) post fire areas that have burned within 1 to 6 years,
> 2) areas with extensive bark beetle outbreaks causing widespread tree mortality, and
> 3) a natural range of smaller disturbances scattered throughout the forest such as windthrow, ice damage, or other occurrences that produce small patches of dead trees.
>
> Wildlife Report Appendix C.

Black-back woodpeckers are specialists associated with recently-killed forests and high severity fire. Hutto 2008. The wildlife specialist stated that there was an average of 201,643 acres per year between 2004 and 2013 affected by wildfire. However, according to what the Forest Service indicated as appropriate post-fire habitat (1-6 years post burning), most of this burned habitat will be older than six years, and after next year all of it will older than that. Additionally, there

is no disclosure on whether every acre had burned and how severely—so far as this analysis reads, a roughly 201,643-acre area of "burned acres" could be like this 11,779-acre project area—the actual burned acreage, as the actual acreage proposed for logging, is much less. In fact, that is likely, as there has not been a stand-replacing fire in recent years and fires tend to burn with areas of low severity to areas of high severity. *See* Odion et al. (2014). While the wildlife specialist implied there is 12,000 acres of habitat on the St. Joe District in 2015, if the woodpecker uses fire areas that have burned within 1 to 6 years then in two years these acres will not longer be suitable habitat, either.

The Forest Service has emphasized that this area has extensive bark beetle outbreaks and implies further mortality, so this habitat will still be good habitat and will be creating new habitat, whereas the fire-impacted areas won't. Based on these numbers, the wildlife specialist admits that "potential impacts from this project[] may impact BBWP to a minor degree." How can the specialist arrive at this conclusion without analysis and the overly general assumptions about habitat creation that will be outdated in one to two years? An admission that something "may" impact a species should warrant an analysis, and there have been no sufficient reasons given for ignoring potential impacts to the black-backed woodpecker.

AQUATICS AND FISHERIES

The EA states, "When a drainage on National Forest System lands approaches a 20 percent equivalent clearcut area, there is an increased risk for adverse effects to the stream channel geomorphology." EA at 23. Yet, the EA also admits, "With implementation of the proposed action, the equivalent clearcut area for Kelley Creek is 28 percent, Siwash Creek is 18 percent, St. Joe Face is 13 percent, Theriault Creek is 23 percent, and Williams Creek is 20 percent." Ibid. As such 3—if not 4—of the 5 streams in the project area are of concern. That alone indicates the proposal—clearcut logging and new roads—would have a negative impact on the water quality.

Furthermore, the EA later shows that the total ECA for these streams is much higher from a cumulative-impact perspective. EA at 24. The figures are 57% for Kelley Creek, 55% for Williams Creek, 46% for Theriault Creek, and 29% for Siwash Creek.

FW-STD-WTR-01states, "Short-term effects from activities in source water areas may be acceptable when those activities support long-term benefits to the RHCAs, soils, and aquatic resources." Forest Plan at 22, footnotes omitted. However, the EA's water quality discussion, pages 22 to 25, have no discussion of any benefits. We fail to see how this complies with the Forest Plan.

Another issue is the Forest Plan is based upon watersheds, as indicated on page 22. The EA chose to use the WEPP model, which is not a full watershed model. It is the wrong tool for modeling impacts to the 5 separate watersheds.

The EA and Hydrology Report are not clear as to whether the requirements of the Clean Water Act are being met. They refer to an integrated 305(b) report from Idaho Department of Environmental Quality. Presumably the integrated report also covers 303(d) listed streams, but the EA is not explicit on this point. Regardless, more important parameters such as percent fines by depth and cobble embeddedness are what are crucial for salmonid habitat maintenance. There is no quantifiable information to ensure that fish habitat would indeed be protected. Rather, we are treated to vague statements regarding fish habitat. What are the real impacts to fish?

There is no Fishery report that public can review online even though it is referenced in the EA at page 38. The EA alleges any sediment would be trapped above fish bearing reaches. However, there is no analysis of the gradient of the headwater streams. EA at 40. However, the Watershed Report suggests that under bankfull events, "suspended (fine) sediment could be expected to impact water quality in the St. Joe immediately downstream from the confluences of the project area streams." Hydrology Report at 5. There is a contradiction in the potential impacts to fish-bearing streams, including the impacts on bull trout and Westslope cutthroat. Bull trout are listed under the Endangered Species Act (ESA). These inconsistencies render the analysis inadequate.

The same problems apply to the St. Joe River. It is a designated as a Wild and Scenic River. There is no analysis in the EA of the impacts on this river even though sediment is expected to enter the river, at least according to the Hydrology Report, from the proposed timber sale. How would this sale affect the outstandingly remarkable values of the St. Joe River? This is not addressed even it must be considered since a portion of he river corridor is within the project area.

CLIMATE CHANGE

The EA should re-examine the assumptions relating to resilience and sustainability in the Idaho Panhandle Forest Plan as a result of 1) recent fires, 2) past regeneration success/failure in the project area, and 3) climate-risk science. NEPA requires a "hard look" at the (best available) science relating to future concentrations of greenhouse gasses and gathering climate risk as we move forward into an increasingly uncertain and uncharted climate future. What the Forest Plan, even though it was completed in 2015, considers resilient, may not be resilient in the future. This kind of hard look has not been done adequately either at the programmatic or at the project level. Indeed, the Brebner timber sale would reduce lodgepole pine and Douglas fir. Yet, according to projections done at a large scale by the Forest Service (map attached), these two species are two of the only ones to have suitable habitat in the project area in 2060.

Conclusion

Thank you for considering our comments. We hope to see you withdraw this project and propose it under normal NEPA procedure, with a reasonable range of action alternatives, with a more sufficient analysis of your proposed alternative, and with a much more sufficient analysis of the no-action alternative. Please keep us notified by mail as you continue to develop this project.

Analysis of Objection Point 2

Is the proposal still under the 2014 Farm Bill provision of Public Law 108-48? It is not mentioned in the later EA or the DN, yet the project still includes only the proposed action and no action alternatives. The 45-day objection period suggests it is not under HFRA, yet there is no explicit statement to that fact. Please clarify.

If it is not under the provisions of Public Law 108-48, the public has not been informed of this change and had an opportunity to provide input as to alternative courses of action on the EA. The scoping letter led the public to believe it would be conducted under PL 108-48 and the EA was even clearer, stating it was being conducted under PL 108-48. Assuming it is no longer under PL 108-48, it violates NEPA for full public disclosure and public transparency. This bait and switch is no way to conduct public input on lands owned by the public. It is also problematic because, if you have dropped the HFRA authority and are now proceeding under the normal NEPA procedures, you have not discussed why the key issues identified in the first round were not incorporated into a reasonable range of alternatives.

If it is being conducted under PL 108-48, then the problems identified in our comments are still valid. These include the prohibition on establishing permanent roads and retention of large and older trees.

The elk security measures proposed—closing a middle segment of a trail—are detailed in our comment letter. The Forest Service admits gates have a poor record of actually closing places. Furthermore, this trail closure is not in the project area. EA at 11.

Further, the Fuels and revised Hydrology Reports were not available until after the comment period on the EA (see attached screen shot).

Remedies:

1- If this is not being proposed under PL 108-48, release a scoping document and /or EA, with a range of alternatives, because the proposal is not consistent with NEPA and public disclosure.
2- If this is being proposed under PL 108-48, then the requirements of that law must be met including no permanent roads and retention of old and large trees. This requires, at minimum, a new alternative.
3- Reduce the size of the sale to ensure that the elk security is being met.

4- Withdraw the DN and prepare a new EA to meet the best available science on rare species including black-backed woodpeckers, fishers, and harlequin ducks.

Objection 3. Because of conflicting evidence from the Forest Service's own experts and because of the scientific uncertainty, the Brebner Flat Project should be an EIS

We understand that Region 1 has prohibited the forests in its region from preparing environmental impact statements absent regional permission,[8] which constructively forces this project's decisionmaker to do an environmental assessment and predetermines a finding of no significant impact. However, this violates the plain language of the National Environmental Policy Act on environmental impact statements for potentially significant impacts and CEQ's NEPA-implementing regulations. Various issues that we have raised pose potentially significant impacts, and you have not responded to those comments.

Environmental assessments cannot legally substitute for environmental impact statements.

> The environmental assessment is a concise public document which has three defined functions. (1) It briefly provides sufficient evidence and analysis for determining whether to prepare an EIS; (2) it aids an agency's compliance with NEPA when no EIS is necessary, i.e., it helps to identify better alternatives and mitigation measures; and (3) it facilitates preparation of an EIS when one is necessary. *Section 1508.9(a)*.[9]

When there are substantial questions as to significance, the Forest Service must analyze in an EIS, as that analysis serves a purpose different from an environmental assessment. The Ninth Circuit has highlighted the difference between the two:

> [A]n EIS serves different purposes from an EA. An EA simply assesses whether there will be a significant impact on the environment. An EIS weighs any significant negative impacts of the proposed action against the positive objectives of the project. Preparation of an EIS thus ensures that decision-makers know that there is a risk of significant environmental impact and take that impact into consideration. As such, an EIS is more likely to attract the time and attention of both policymakers and the public.

Anderson v. Evans, 314 F.3d 1006, 1023 (9th Cir. 2002).

CEQ directs how to consider what is significant:

Significantly as used in NEPA requires considerations of both context and intensity:

[8] USDA, Forest Service, Region 1, *Region 1 Decisions and Agreements to Implement our Environmental Analysis and Decision Making Effort* (April 26, 2019)

[9] Council on Environmental Quality, Executive Office of the President (1981). *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*. Memorandum to Agencies.

(a) *Context.* This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.

(b) *Intensity.* This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

40 C.F.R. § 1508.27.

As noted under our EA comments, the Forest Service is using highly controversial assumptions that logging reduces wildfire and increases forest health and desired outcomes. We noted those assumptions and introduced relevant science that debunks the Forest Service's assumptions, including science that discusses the important role that fire and insects play in making forests healthy. We noted science discussing observations of the opposite impact—that managing areas by logging may increase high severity wildfires. We have not seen a response to these points. In any event, the degree of impact on the environment (increasing fire severity) is controversial to what the Forest Service claims and it impacts public safety. This also involves unknown risks because the Forest Service has not monitored "hazardous fuel reduction projects" even though its been doing these projects for years. Friends of the Clearwater submitted a Freedom of Information Act request to Region 1 for documents related to the monitoring done for authorized hazardous fuel reduction projects, as required by the Healthy Forest Restoration Act. No monitoring exists. We've submitted Friends of the Clearwater's request and Region 1's response that it had no information for us.

We stated that science suggests there are far too large dead trees to maintain ecologically healthy forests. Yet the Forest Service's aim is to eliminate the mechanisms that will create future dead trees for wildlife habitat. This is a strategy with a highly uncertain effect, one that needs to be analyzed.

There is also a controversial and uncertain impact on fisher because you have not discussed it.

There is a controversial and uncertain impact on the black-backed woodpecker because the Forest Services own wildlife report is self-conflicting.

The impacts of logging on older forests, such as old growth, is controversial because it eliminates the mechanisms that cause the characteristics we consider old growth.

Your logging is likely visible from the St. Joe Wild and Scenic River, so it impacts a unique characteristic.

Objection 4. The Forest Service has ignored the safety risk and environmental impacts of adding yet more roads to the National Forest System

We are adding this comment about roads. We did not venture far into the road issue because of parameters under the Healthy Forest Restoration Act. But, if you are no longer using that authority, this is an issue you must consider.

Our public lands do not need more roads. Roads cause habitat fragmentation, decreases water quality, and destabilizes slopes, among other environmental impacts—even if put into storage, they are on the landscape.

The Forest Service's admission about the environmental problems of roads underscores the need for a better discussion on roads. So, putting in a new road, which will deteriorate over time, may cause environmental and safety hazards where an area without a road would have none. This is a potential environmental impact.

In 1998, the Forest Service *conservatively* estimated that 60,000 miles of unauthorized and unclassified roads exist.[10] The popularity increase in motorized and mechanized recreation suggest that even a conservative estimate now would exceed what existed twenty years ago. Yet, this project does not recognize that possibility that users will just drive around gates.

Roads that are created and roads that are maintained to persist on the landscape cause a host of potential environmental problems. "Numerous studies show that watersheds with fewer **roads** are often associated with healthier fish populations, and roads may have unavoidable effects on streams, regardless of how well they are located, designed, or maintained (USDA Forest Service and USDI Bureau of Land Management 1995)."[11] The Forest Service has recognized that roads impact the environment: "Roads have well-documented short- and long-term effects on the environment..."[12] Some of these effects include spreading nonnative species, habitat fragmentation and alteration, predation, road kill, environmental pollution, and degrading aquatic habitat. For a general idea of some of the potential ways that roads and their persistence on the landscape impact the environment, see the resources in this footnote at the end of this sentence.[13] For these reasons, you need to better justify why the new roads and keeping the existing roads and discuss the environmental impacts of a range of choices around this issue.

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[10] USDA, Forest Service. 2000. Roadless Area Conservation Rule Final Environmental Impact Statement Ch. 1 p. 5.

[11] USDA, Forest Service. 2000. Roadless Area Conservation Rule Final Environmental Impact Statement Ch. 1 p. 1.

[12] USDA, Forest Service. 2000. Forest Roads: A Synthesis of Scientific Information, p. 4.

[13] USDA, Forest Service. 2000. Forest Roads: A Synthesis of Scientific Information; Rhodes et al. 1994. *A Course Screening Process For Evaluation of the Effects of Land Management Activities on Salmon Spawning and Rearing Habitat in ESA Consultations*, Technical Report 94-4, prepared for the National Marine Fisheries Service; Fu et al. 2010. *A review of surface erosion and sediment delivery models for unsealed roads*, Environmental Modelling & Software 25: 1-14; McClelland et al. 1997. *Assessment of the 1995 & 1996 Floods and Landslides on the Clearwater National Forest, Part 1: Landslide Assessment*, A Report to the Regional Forester, Northern Region, U.S. Forest Service; Barik et al. 2017. *Improved landslide susceptibility prediction for sustainable forest management in an altered climate*, Engineering Geology 230: 104-117.