

**BEFORE THE OFFICE OF THE REGIONAL FORESTER
REGION ONE – USDA FOREST SERVICE**

Objection Reviewing Officer

John Gangemi

Objector

v.

CHIP WEBER

FLATHEAD FOREST SUPERVISOR

Responsible Official

)
)
)
)
)
)
)

**NOTICE OF OBJECTION
PURSUANT TO
36 CFR 218**

DECISION OBJECTED TO:

Crystal Cedar Project Draft Decision Notice and Finding of No Significant Impact (hereafter
Crystal Cedar, Project, Planning Process, DN and FONSI)

Hungry Horse – Glacier View Ranger District

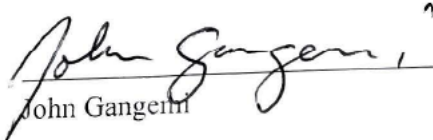
Chip Weber, Flathead Forest Supervisor, November 14, 2019.

OBJECTOR:

John Gangemi

[REDACTED]

[REDACTED]


John Gangemi

December 27, 2019

Date

I am a resident of Columbia Falls. I am an avid hiker, mountain biker and Nordic skier. I have been Nordic skiing in the Flathead Valley for the past 30 years. I am active member of the Nordic community in the Flathead Valley having served as a founding member of the North Shore Nordic Club and member of the Glacier Nordic Club board of directors. I have a vested interest in protecting existing and future Nordic skiing opportunities for the community.

CHRONOLOGY OF INVOLVEMENT

I am an active participant in the Flathead National Forest (FNF) Crystal Cedar Environmental Assessment (EA) and filed multiple comments requesting Nordic ski trails be considered in the planning process. I met in person with FNF staff at the Hungry Horse Ranger District (HHRD) in June 2018 to express my interest to include Nordic ski trails in the Crystal Cedar Planning Process. At that meeting FNF staff encouraged me to submit a letter expressing my interest in including Nordic ski trails in the planning process. I submitted that letter of interest to the HHRD on June 29, 2018 (Attachment 1: Pre-scoping Comments Gangemi 2018-06-29). HHRD Crystal Cedar Planning leader acknowledged receipt of my June 29 letter in an email response (Attachment 2: Canepa email response 2018-07-12). I also filed comments on the Scoping Document for the proposed project in the regulatory comment period (Scoping Comments Gangemi 2018-11-12). Members of the Nordic community including myself met with Forest staff at the HHRD on three occasions, December 03, 2018, February 20, 2019 and March 20, 2019, to request the FNF consider a Nordic trail system in the Crystal Cedar Planning Area. I filed timely comments on the Crystal Cedar EA. The FNF Response to Comments (RTC) in the draft DN and FONSI fail to address my comments with factual evidence, previous Records of Decision (ROD), administrative rules or regulations to support their decision not to investigate Nordic ski trails in the Crystal Cedar Planning Process.

OBJECTION

The Crystal Cedar DN and FONSI does not comply with procedural and substantive requirements of the National Environmental Policy Act (NEPA). Members of the public submitted comments in the scoping and draft EA stages requesting Nordic ski trails be analyzed in the Crystal Cedar Planning Process. The FNF is obligated to analyze issues identified through public comment submitted in a timely fashion and within the project purpose. Nordic ski trails are consistent with the first purpose stated in the Crystal Cedar Scoping Document released October 15, 2018 which

was to “Provide sustainable trail-based recreation opportunities close to local communities that are compatible with other resources”(Crystal Cedar Scoping Document page 1). Despite meeting the project purpose requirements, FNF staff elected instead to disregard public comments requesting investigation of Nordic ski trails in the Crystal Cedar Planning Area. FNF staff failed to provide defensible evidence supporting their internal decision not to analyze Nordic ski trails.

Members of the public participated in the Crystal Cedar planning process in good faith. The NEPA process is the only opportunity for the public to have a voice in management of our public forests. Intentionally omitting legitimate issues identified by the public is a clear procedural violation of NEPA.

Because of the procedural violations, the Crystal Cedar EA omitted the required objective investigations requested by the public. The FNF’s draft DN and FONSI lacks the substantive analysis requested by the public. As a result, the draft DN and FONSI is not supported by documents in the administrative record of this NEPA proceeding.

REASONS FOR OBJECTION

Developed Nordic skiing opportunities are limited in the Flathead Valley. Demand for the current Nordic ski opportunities exceed the parking capacity at trailheads (Table 1). The population in the Flathead Valley is projected to double in the next 10-years. Rising temperatures will likely result in the closure of Nordic ski trails on the Whitefish Golf Course. This likely closure along with a doubling of the population will lead to increasing demand for a decreasing number of parking spaces to access Nordic trails.

Table 1: Nordic skier use at Lookout Ridge Trailhead winter of 2017-2018

Month	Number of Nordic skiers
December 2017 (opened late in Dec)	508
January 2018	2274
February 2018	2616
March 2018	2524
December 2018	3366

Creating new Nordic ski opportunities on adjacent FNF lands requires an environmental review planning process. The universe of locations on the FNF where Nordic ski trails could be developed is limited due to seasonal wildlife closures. The Crystal Cedar Planning Area was identified in the new FNF Forest Plan as an area for focused recreation development. The Crystal Cedar Project Planning Process is the logical forum for the FNF to evaluate Nordic ski opportunities.

The FNF was informed by many members of the public including the City of Columbia Falls that Nordic ski trails should be considered in the Crystal Cedar EA. FNF planning staff were aware that Nordic skiing was an area of interest by the public in the pre-scoping phase of the Crystal Cedar EA. In fact, FNF planning staff provided the following email response to a letter acknowledging public interest in Nordic skiing, “We are very early in the planning stages for this project so it is great to get all of these ideas out on the table so we know what interests the community has for this area” (Sarah Canepa email response July 13, 2018). I was disappointed to read that Nordic ski trails were not included for analysis in the proposed action despite consistency with the first purpose stated in the Scoping Document to “Provide sustainable trail-based recreation opportunities close to local communities that are compatible with other resources”(Crystal Cedar Scoping Document page 1). Clearly Nordic ski trails fall within the purpose defined by the FNF. Numerous members of the Nordic community filed comments on the Crystal Cedar Scoping Document stating Nordic ski trails should be considered in the planning process.

Scoping is an important step early in the environmental review process allowing the public to make agency staff aware of issues overlooked in their development of the scoping document. The agency is obligated to conduct objective analysis of the issues identified by the public during scoping if those issues fall within the geographic area and timeframe for the proposed action and are not precluded by a previous decision notice, administrative rule or regulation. Nordic ski trails meet all these criteria. Therefore, FNF is obligated to carry forward objective analysis of Nordic ski trails legitimately identified in the beginning stages of the Crystal Cedar EA and documented in the administrative record. Failure to carry objective analysis of Nordic ski trails puts the Crystal Cedar EA out of compliance with NEPA.

It appears that the FNF had a pre-determined outcome for the Crystal Cedar EA and has systematically tried to exclude Nordic ski trails from the Crystal Cedar NEPA analysis. This was evident in a meeting with FNF planning staff at the December 3, 2018 meeting at the HHRD where

staff told us we were “too late to the process.” We were confused. The FNF had just closed the Scoping process for Crystal Cedar. We had filed timely comments on the scoping document requesting the FNF consider Nordic ski trails. We submitted comments believing the NEPA process starts with the legal notice filed by the FNF. Why would FNF staff make a statement that directly conflicts with NEPA process? Did the internal timeline established to get the Crystal Cedar EA done not allow staff the opportunity to consider new issues? The NEPA process is intended to guarantee the public an opportunity to identify issues overlooked by the agency that fall within the project purpose. The FNF cannot disregard issues because they potentially disrupt their pre-conceived timeline. The Nordic community requests to be treated fairly under the regulatory procedures established under NEPA. We firmly believe we were not late to the process but in fact were timely with our request to include Nordic ski trails.

I submitted comments in the Crystal Cedar EA process in good faith. I am personally disappointed the FNF ignored my comments and those of others to steamroll what appears to be their predetermined outcome for the Crystal Cedar Planning Process. The FNF was put on notice in pre-scoping and throughout the process by members of the public including the City of Columbia Falls that winter recreation and Nordic ski trails should be analyzed in the Crystal Cedar EA. Instead, the FNF systematically disregarded public comments at each step of the Crystal Cedar Planning Process but failed to produce factual evidence, previous Records of Decision (ROD), administrative rules or regulations to support their decision not to investigate Nordic ski trails in the Crystal Cedar Planning Process. I expected the FNF to evaluate my request to investigate Nordic ski trails in this process objectively. Nordic ski trails deserve the same level of investigation and analysis as summer hiking, biking and equestrian trails.

The FNF made an internal decision that Nordic ski trails conflict with all other forms of winter recreation. The FNF determined that resolving these conflicts was outside the scope of the Crystal Cedar analysis. Management of public lands is inherently contentious. Because an issue is contentious does not waive the FNF’s obligations to perform analysis under NEPA. On the contrary, the NEPA process is designed to analyze contentious issues objectively and propose management tools to minimize or eliminate those conflicts. Furthermore, the FNF is a public forest not a forest for the exclusive use of neighbors at the expense of the public. Opinions and comments by adjacent property owners do not override FNF’s obligation to analyze issues objectively in the NEPA process.

Contrary to the FNF opinions, Nordic ski trails are compatible with other winter recreation activities. Numerous examples exist throughout the western states including Montana where motorized and non-motorized winter recreationists co-exist without conflicts utilizing the same parking infrastructure to access their respective designated trail networks.

The 2003 FEIS for Winter Motorized Travel on the FNF (Forest Plan Amendment 24) clearly states that it does not include an analysis of the environmental effects of Nordic ski trails. The purpose of the FEIS was to analyze opportunities on the FNF for recreational snowmobiling. The FEIS clearly stated that using a snowmobile to groom Nordic ski trails is not the same activity as recreational snowmobiling. Therefore 2003 Winter Motorized Travel Decision Notice does not excuse the FNF from analyzing Nordic ski trails in the Crystal Cedar Planning Process.

Interestingly, the Winter Motorized Recreation FEIS points out one of FNF's management objectives in the previous Forest Plan "Develop additional cross-country ski trails where increased demand exists (p 3-15). The FNF never developed a monitoring plan for this objective let alone initiate monitoring to determine if the demand exists. Now when the opportunity to evaluate Nordic ski trails is presented to them in an existing planning process, the FNF instead chooses to avoid their responsibility to analyze the issue.

FNF RTC F-14, F-18, F-19, F-20, F-22, F-27, F-28, F-29, F-31, F-32, F-33, F-35, F-90, F-91, F-98, F-106, F-130, F-152, F-154 (DN at 75-78): The FNF responds that Nordic ski trails overlap with snowmobile routes approved in the FNF ROD for Over Snow Travel. The FNF determines that changes to the Over Snow Travel map are outside the scope of the Crystal Cedar DN and therefore FNF is not required to include this issue in the NEPA analysis. FNF's rationale is all based on a preliminary map of potential Nordic trail system submitted by commenters. I drafted the map of potential Nordic ski trails on February 26, 2019 in direct response to an email request from Hungry Horse District Ranger, Rob Davies on that same day (Attachment 3). The map (included as attachment to email—see Attachment 3), was clearly labeled preliminary. The preliminary map was intended to start collaborative discussions with FNF staff that would ultimately lead to objective analysis of the best place to locate Nordic trails that minimizes conflicts with other uses. Instead, the FNF misused the preliminary map to end any further collaborative discussions. Furthermore, the FNF used the preliminary map in the draft DN as their justification to label Nordic trails as outside the scope of the analysis because it would re-open the ROD for Over Snow Travel. The preliminary map was an example and should not be viewed as a proposal or justification not to

analyze this recreation activity. Relabeling a preliminary map provided by volunteers in good faith erodes trust and future collaborative efforts.

The workgroup meeting intended to review and discuss the preliminary Nordic trail network never came to fruition. Members of the Nordic community were invited to a meeting at the HHRD on March 20, 2019 where we lectured for 28 minutes that we needed to learn to be more collaborative. We were shocked by this response. We were trying to collaborate with the FNF. In fact, we attended the meeting under the impression we were going to start drawing lines on maps collaboratively with FNF staff providing input on suitable places to locate Nordic trails based on their knowledge of wildlife security needs and areas to avoid user conflicts. Instead, the meeting was terminated 30 minutes after the start with no opportunity to discuss alternate locations of trails. It seemed ironic, given our active and open participation in the NEPA process and pro-active efforts to participate in additional meetings with the FNF, that we were failing to collaborate while at the same time the FNF was choosing to stop discussions.

As mentioned, the map of preliminary Nordic ski trails was provided in direct response to an email request from District Ranger Davies on February 26, 2019. The Nordic community was given less than four days four days to provide the information requested in his email. Certainly nothing requested in this short a time frame from volunteers with full-time jobs should be considered final. We were under the impression this would be used as a starting point for collaborative discussions to help us collaboratively develop an alternative that would eliminate or minimize effects to resources and other recreational users.

There is an abundance of existing roads, old skid roads and trails in the Crystal Cedar Planning Area. Through the NEPA planning process, the location of Nordic ski trails could be adjusted to eliminate conflicts with other uses permitted in the area. Instead of doing this analysis in the NEPA process, the FNF obfuscates their NEPA responsibilities by claiming the map provided by commenters is the only location the community wants Nordic trails. The RTC F-14, F-18, F-19, F-20, F-22, F-27, F-28, F-29, F-31, F-32, F-33, F-35, F-90, F-91, F-98, F-106, F-130, F-152, F-154 (DN at 75-78) fails to address commenters requests to include a Nordic ski trail network in the Crystal Cedar Planning process because it misuses a preliminary map intended for collaborative input and fails to consider individual segments of the trail network and other locations in the planning area not subject to the FNF ROD for Over Snow Travel. Furthermore, promising to meet with members of the Nordic community at a future date and unnamed process does not relinquish

the FNF duty to analyze a range of Nordic trail alternatives in the planning area. A range of locations were analyzed for mountain bike trails in the planning area. The same level of analysis should be completed for Nordic ski trails. This could be easily accomplished in a collaborative process with the Nordic community and other user groups as part of the Crystal Cedar Planning Process.

FNF RTC F-87, F-119, F-128, F-141, F-142, F-143 (DN at 78-79): A small number of commenters criticize the Nordic community for not submitting a detailed proposal for Nordic ski trails to the FNF. The respondents also oppose Nordic ski trails assuming it will preclude their historic use of the area. The FNF re-states their previous response that Nordic ski trails will require a change in the ROD for Over Snow Travel and is better dealt with in a larger discussion with other groups interested in winter use. As stated previously, the ROD for Over Snow Travel does not apply to all segments of the preliminary Nordic trail map and does not waive FNF's obligation to consider other trail segments in the Planning area. The routes designated in the ROD for Over Snow Travel can easily be avoided in a Nordic trail system. Therefore, the ROD for Over Snow Travel does not waive the FNF's requirement under NEPA to analyze Nordic ski trails in the planning area.

The FNF's claim that Nordic ski trails need to be a larger discussion outside the scope of the Crystal Cedar Planning Process is false. The Crystal Cedar Planning Process is the appropriate process to have this discussion. The request to include Nordic ski trails in the NEPA analysis was raised in a timely fashion and meets all the criteria for consideration. The FNF can't label this as outside the scope of the analysis because potential conflicts have been identified. Most public land management decisions involve conflicts. NEPA is intended to objectively analyze and attempt to resolve conflicts with management tools.

The Nordic community is not required to develop a formal proposal in advance of NEPA for the FNF to consider. As the lead agency, it is the responsibility of the FNF to develop a range of alternatives for consideration by the public in the NEPA documents. These alternatives are developed in part by public comments on publicly available documents. The comment period officially starts with the legal announcement by the FNF. Members of the Nordic community met this requirement for consideration of Nordic ski trails. We are not required to provide comments or a proposal in advance of the FNF legal announcement to be considered in the NEPA analysis. A range of alternatives was considered for mountain bike trails some of which are controversial.

Nordic trails deserve the same level of review and analysis in the NEPA documents.

Nordic ski trails were never provided an opportunity to be objectively investigated because the FNF made the determination that resolving user conflicts was outside the scope of the Crystal Cedar Project. Using that logic, all the items under consideration in this project purpose should be outside of the scope of this document based simply on opposing comments listed in Appendix B. Public land management always generates conflict. One of the purposes of the NEPA process is to work through those conflicts in a fair and objective manner. The FNF is the public's forest not the neighbor's forest. Accordingly, perceived conflicts with adjacent property owners does not waive the FNF's requirement to objectively analyze issues identified by the public in the NEPA process. The FNF's RTC claiming that conflict is outside the scope of the Crystal Cedar Planning Process does not address comments **F-87, F-119, F-128, F-141, F-142, and F-143 (DN at 78-79)**.

RELIEF

The draft DN and FONSI fails to consider public requests to investigate Nordic trails in the Crystal Cedar Planning Process. The FNF must restart the Crystal Cedar Planning Process. The new environmental review must include an objective investigation of Nordic ski trails in the Crystal Cedar Planning Area. Objective analysis must include a comprehensive examination of conditions and opportunities in the planning area including inventory of the existing trail and road network, evaluation of other recreation activities in the planning area, FNF proposed timber harvests, potential parking areas, access roads and wildlife resources. This can be accomplished in a collaborative process with the Nordic community. The collaborative can develop a range of Nordic ski trail alternatives designed, in part, to mitigate potential conflicts with other users and avoid negative effects on other resources.

ADDITIONAL INFORMATION

Rivers Edge Park Master Plan (Attachment 4): In August 2019, contractors for the city Columbia Falls completed a master plan for the River's Edge Park in Columbia falls. The master plan solicited input from members of the public through a community market booth and online public survey. Appendix B of the Master Plan illustrates survey responses. The number one recreation activity requested by the public was cross country skiing (Rivers Edge Master Plan page 36).

Methow Trails economic report (Attachment 5): In 2015, the Methow Trails Association published an economic impact analysis of the Nordic ski trail system on the local economy of the

Methow Valley. The report identifies the direct and indirect benefits to the Methow Valley. FNF staff should consider the economic impacts of their decision on the local community of Columbia Falls before arbitrarily choosing to exclude an entire season from consideration in the Crystal Cedar Planning Process. The Methow Trails Association has applied simple management tools to resolve user conflicts. Including winter recreation opportunities in Crystal Cedar Planning could help Columbia Falls become a winter destination for tourists and residents alike rather than a community you drive through to get to recreation opportunities in other locations.

Human Powered Snowsports 2018 Trends and Impact Report (Attachment 6): Winter Wildlands produces an annual report on human powered snowsports. The report includes use numbers by activity and consumer spending. Interest and participation in human powered snowsports is steadily increasing each year. Cross country skiing had the highest growth rate in the past three years among all winter sports. Demand for human powered snowsports is likely to increase at a higher rate in the Flathead Valley due to the population growth and factors motivating individuals to move to this area. Developed Nordic ski opportunities are the most limited in the Flathead Valley and likely to suffer the most from increased demand manifested in lack of parking and overcrowded trail systems. The FNF should consider the increasing demand for Nordic skiing before deciding to exclude this type of opportunity from analysis in the Crystal Cedar Planning Process.

CONCLUSION

Developed Nordic skiing opportunities are limited in the Flathead Valley. Demand for the current Nordic ski opportunities exceed the parking capacity at trailheads. The population in the Flathead Valley is projected to double in the next 10-years. Rising temperatures will likely result in the closure of Nordic ski trails on the Whitefish Golf Course. This likely closure along with a doubling of the population will lead to increasing demand for a decreasing number of parking spaces to access Nordic trails.

Creating new Nordic ski opportunities on adjacent FNF lands requires an environmental review planning process. The universe of locations on the FNF where Nordic ski trails could be developed is limited due to seasonal wildlife closures. The Crystal Cedar Planning Area was identified in the new FNF Forest Plan as an area for focused recreation development. The Crystal Cedar Project Environmental Assessment (EA) is the logical process for the FNF to evaluate Nordic ski opportunities.

The FNF must not approve the Draft DN and FONSI for the Crystal Cedar EA. The FNF arbitrarily elected to eliminate issues raised by the public from analysis in the Crystal Cedar NEPA process but failed to substantiate their decisions with supporting evidence. The FNF appears to have systematically attempted to exclude Nordic ski trails from analysis in the Crystal Cedar Planning Process. Members of the Nordic community were told by FNF staff they were “too late to the process.” FNF staff misconstrued preliminary work products designed to start collaborative discussions as final proposals and used them to dismiss the issue for consideration in the NEPA process. In so doing, the FNF violated NEPA procedures by failing to evaluate issues raised in a timely fashion by the public. The Crystal Cedar Environmental Analysis must be restarted with a fair and objective evaluation of public comments. The new process must include an objective evaluation of Nordic ski trails preferably in a collaborative manner. It is logical and fiscally prudent to restart the NEPA process with Nordic ski trails included in the analysis as opposed to the more costly and indefinite timeframe associated with appeals and lawsuits.