

Canyon Lake Dam Access – Bitterroot National Forest

Objection Responses – Wilderness Watch

Issue 1: Objection Process

Contention 1: Limitation of Objection Issues

The objector questions the limits on the scope of objections considered, when the updated EA does not address his previous issues.

Objector(s): Wilderness Watch

Response:

The Canyon Lake Dam Access project was previously reviewed in the fall of 2019. The first objection filing period ran from September 16 to October 20, 2019. The objection review addressed issues raised by objectors. As a result of that review I determined that the responsible official properly analyzed the effects of access to the dam site but had not considered the effects from dam maintenance and repair activities. Although dam repair is not under the jurisdiction of the Forest Service because the agency does not own the dam, the Forest Service is still responsible for disclosing the effects of these activities.

In my objection review response letter (January 14, 2020, <https://cara.ecosystem-management.org/Public//ReadingRoom?Project=55165>) I instructed Forest Supervisor Matt Anderson to analyze the effects of dam repair and maintenance activities and to go out with another opportunity to object on those activities only. These activities were disclosed in the EA (EA, Appendix B). My rationale for limiting objections to repair and maintenance activities is that the public had already been given opportunities to comment and object on the project. Except for disclosure of effects from repair and maintenance activities, the project was determined to be in compliance with law, regulation and policy during the previous objection review.

Contention 2: Public Involvement

The objector claims the project should have been subject to a public comment process because it included new information.

Objector(s): Wilderness Watch

Response:

Please see response to Issue 1, Contention 1. The scope of the second objection filing period was limited to new information because, as mentioned above, the proposed action had already received public input and had been through the objection process. Two 30-day comment periods were provided; one initiated in December 2018 and the other in February 2019. The first objection filing period for those who had previously submitted comments ran from September 16 to October 30, 2019.

Objection regulations at 36 CFR 218.8 (c) specify that “Issues raised in objections must be based on previously submitted specific written comments...unless the issue is based on new information that

arose after the opportunities for comment.” In other words, a person must have previously submitted written comments on the project during an official comment period (such as the two 30-day comment periods provided on this proposal) to be eligible to submit an objection. However, any member of the public, regardless of whether they previously commented, may submit an objection if it is based on new information that arose after the opportunities for comment. Such is the case here. The responsible official notified the public about the second objection filing period and that objections would be accepted on the new information (Project file, March 20, 2020 Letter to the Public). Only one objection letter was received.

I find the responsible official provided multiple opportunities for the public to comment and object in compliance with NEPA and Forest Service regulations.

Issue 2: National Environmental Policy Act

Contention: Wilderness Effects Analysis

The objector contends that the Responsible Official failed to analyze the direct, indirect, and cumulative impacts of the proposal on wilderness.

Objector(s): Wilderness Watch

Response:

The objector states that the failure to analyze effects includes impacts from heavy equipment use and 32 helicopter flights, and that the responsible official failed to rigorously explore reasonable alternatives that would lessen or eliminate those impacts.

The responsible official adequately disclosed the effects of accessing the dam site, including the 32 helicopter flights, in the previous version of the EA (September 2019) and supporting documents in the project file. As a result of my instructions resulting from the first objection review, the responsible official updated both the EA and the Minimum Requirements Decision Guide documentation (MRDG) to further disclose and analyze effects of repair and maintenance activities. Analysis of effects from the non-access project activities were added to the EA (pp. 15-20) and MRDG (pp. 18-21). Project design criteria were added to minimize or eliminate impacts to resources including wilderness character. The *Water and Fisheries* section was added to the design criteria table, and design criteria were added to the *Wilderness Resource, Recreation, Wildlife and Air Quality* section. (EA, Table 1, pp. 8-10),

The updated MRDG presents a detailed breakdown of work and risk analysis associated with each task using non-motorized/non-mechanized means. (MRDG, pp. 24-27) The EA, Draft Decision Notice (DN), and MRDG disclose that there are competing uses involved in the project from competing legal requirements including dam related safety and protection of wilderness character. The responsible official must strike a balance between these legal responsibilities. The EA, DN, and MRDG all support the conclusion that the proposed action is the reasonable alternative mentioned by the objector “that would lessen or eliminate those impacts”.

I conclude the responsible official appropriately disclosed the effects of repair and maintenance activities from the proposed action. Furthermore, proposed activities are consistent with law, regulation, and policy including the Wilderness Act.