

November 30, 2020

Kurt Steele
Flathead Forest Supervisor
650 Wolfpack Way
Kalispell, Mt. 59901

Dear Supervisor Steele,

Thank you for the opportunity to file Objections to the “Draft Decision Notice and Finding of No Significant Impact for the Frozen Moose Project.” Please enter my objections into the official record and keep me advised as this process moves forward. Also, please incorporate by reference the comments of the Swan View Coalition and Friends of the Wild Swan.

General Observations on the Draft Decision Notice]:

After reading the Flathead National Forest (FNF) Appendix B “Response to Comments” as they relate to my issues and concerns, I find they fit in 3 categories: (1) No acknowledgement or response to an issue at all; (2) “We’re right – You’re Wrong” with no scientific grounding; and (3) Simply restating the original FNF opinion that I had disputed based upon science and law. Taken as a whole, these “responses” are entirely unresponsive to any of the concerns I raised and often represent significant departures from accepted science and law.

OBJECTION #1: False Assumptions about fire underpin much of this project. The first “Purpose and Need” for the Project is: “Reduce tree densities and fuel loadings within the wildland-urban interface to result in less intense fire behavior near communities and facilitate safe wildland fire operations.”

This relies on at least two false assumptions: (1) That fuels are the primary drivers of large, high-intensity fires; and (2) that we can remove that threat with aggressive logging programs to lower forest density and fuel loading. However, evolving fire science over the last 20 years has repeatedly shown that neither of these assumptions is true. In reality, the primary driver of large, stand-replacing fires is heat, drought, and above all wind (See Attachments).

In fact the original EA P: 92 and the Updated EA, P: 131 admit that, “Although future fire intensity will be reduced in vegetation management units, rate of spread can increase in the post-treatment environment due to a reduction in shading from the sun and sheltering from the wind (emphasis added). First, the “future” referred to is certainly at least 20-30 years away before forest regrowth once more shades the ground and cuts the wind. Second, the EA’s claim that fires in the interim are likely to be “fast moving, low-intensity surface fires...” rings hollow for those of us who observed stand replacing fires move through the logged and roaded areas of the Moose Fire (2001), Robert Fire (2003),

Red Bench fire (1988), Bear Creek Fire (2015 Soldier Addition Unit 49), or significant fires in the Swan Valley in recent years.

The following quotes by fire ecology researchers provides additional evidence that fuels are not the main problem, and more logging is not the solution:

* “As for the industrial timberlands surrounding the community, which are systematically logged, reforested, thinned and managed as crops, he said, “I think it’s pretty clear that this level of intense management didn’t aid the community in any way.” (Chris Dunn, fire researcher at Oregon State about the Holiday Fire, See Attachment).

* They did their own analysis of the Labor Day fires and found that 76% of the area in the Holiday Farm fire was previously logged. On the Riverside fire it was 57%, and on the Beachie Creek fire, more than 40%. Those lands are also crisscrossed by roads, which typically act as fire breaks.

“The fire areas had been logged left, right, and center and it did not stop the fires,” said Erik Fernandez, wilderness program manager at Oregon Wild. “If anything, it may have fueled the fires even more.” (See Attachment: The Oregonian – “Oregon’s Labor Day wildfires raise controversial questions about how forests are managed.” 2020)

“Mike Beasley, a fire behavior analyst and board member at the Firefighters United for Safety Ethics and Ecology, did some preliminary analysis of the Holiday Farm fire using infrared data gathered by U.S. Forest Service aircraft. That data, he wrote, shows how forest openings created by active logging channeled the fire and may have increased its impact.”(See Attachment: The Oregonian)

“...according to research by Tania Schoennagel, an ecologist at the University of Colorado.

“Roughly 1% of US Forest Service forest treatments experience wildfire each year, on average,” said a 2017 research paper she co-authored. “The effectiveness of forest treatments lasts about 10–20 years, suggesting that most treatments have little influence on wildfire....If you’re going to invest those resources, do it around human settlements,” said Lisa Ellsworth, a professor at Oregon State who studies fire. Her bottom line: “We’re not going to log our way out of this Mess.” (See Attachment The Oregonian).

In addition, the Fall 2017 issue of “Swan View News” by the Swan View Coalition (www.swanview.org) reported the following information:

* “What we found was that fires burned most intensely in previously logged areas, while they burned in natural fire mosaic patterns in wilderness, parks and roadless areas,

thereby maintaining resilient forests.” (Testimony of Dr. Dominick DellaSalla to the U.S. House of Representatives, 9/27/17).

* “I don’t think that holds water...the assumption that fires are occurring because there is more fuel available to burn than in the past. That’s generally not what’s driving this. It’s the drought.” (Univ. of Montana fire ecology professor, Philip Higuera).

* “ Senator Daines implies if we do more logging, more vegetation management, more thinning, we won’t have as many acres burned, and we won’t be breathing as much smoke; and that’s just absolutely not true.” (Forest Ecology professor Andrew Larson).

* “The Caribou Fire handily tore through control lines built along old logging roads, as well as through patches of forest that had been previously harvested.” (Rexford District Ranger Bryan Donner, See Attachment).

* “The 1994 Little Wolf Fire leap-frogged from clearcut to clearcut, doubling or even tripling the burning speed of the fire.” (Flathead National Forest Fire Officer Dave Bunnell, DailyInter Lake, 8/24/94).

As I’m sure the Flathead Forest is aware, this list could go on and on, but the message would be the same - by basing its argument on fuel being the primary problem and logging the solution, it is hanging its hat on scientifically and legally losing assumptions.

Potential Solution: A solution to this Objection #1 and Objection #2 are interrelated and are covered at the conclusion of Objection #2.

OBJECTION #2: The Project proposes an arbitrarily inflated Wildland Urban Interface (WUI) with no basis in accepted fire science or “defensible space.”

The concept of Wildland Urban Interface is covered in the Healthy Forests Restoration Act of 2003 (HFRA 2003) and contains the following definition: “An area within or adjacent to an at-risk community that is identified in recommendations to the Secretary in a community wildfire protection plan...” (emphasis added).

The Flathead Community Wildfire Protection Plan (CWPP) on P: 31 says, “As detailed in HFRA, a commonly accepted definition of the Wildland-Urban Interface is the zone where structures and other human developments meet and intermingle with undeveloped wildland and vegetative fuel.”(emphasis added). Similarly, P: 34 of the FCWPP , quoting the SILVIS Lab at the University of Wisconsin-Madison repeats the meet and intermingle language. Clearly, the Congressional intent was to include lands touching or immediately adjacent to forested NFS lands. Yet when we look at Project Maps 1 and 2, we see that that the Flathead Forest has drawn the vast majority of the WUI lines more than 1-4 miles from any private property, and 4 miles from the only actual “community” in the area – Polebridge. This presents the following problems for the Project:

First, as noted above and in Attachments, most fire ecology research concludes that the most important “defensible space” around homes and communities is a buffer of 100-150 feet within which the private landowner – not the Forest Service – is responsible for reducing fire danger. And if the outer margins of that buffer are still within private property, that too is the responsibility of the homeowner – not the federal government at taxpayer expense.

Second, as noted above, under the rapidly warming climate regime, extensive logging (the cutting of trees in any form) has been a demonstrated failure at keeping fire under control and out of communities. In fact, as reported by fire ecologists and admitted in the Updated EA for this Project, such logging can actually make fires worse.

Third, the HFRA (2003) states that “For areas within the Wildland Urban Interface, but farther than 1.5 miles from the boundary of an at-risk community, the USDA Forest Service and DOI BLM are not required to analyze more than the proposed agency action, and one additional action alternative (Sec. 104(d)(1)).” Clearly, the Flathead Forest has failed to provide this required second Action Alternative and must withdraw the current Proposal to correct its error – in a full EIS.

Finally, the Updated EA says that its first Purpose and Need is to “Reduce tree densities and fuel loadings within the wildland-urban interface to result in less intense fire behavior near communities and facilitate safe wildland fire operations.” This is followed immediately by the FNF admission that “Fire is the primary disturbance factor influencing vegetation in the Northern Rocky Mountain ecosystems and this history of fire disturbance is evident in the North Fork. Records show that fire burned approximately 45 percent of the project area between 1910 and 1929. The fires between 1910 and 1929 were largely stand-replacement fires, killing nearly all trees (USDA, 2014).”

Therefore, what this Project proposes is to further interfere with a natural ecological process; to do so miles from any private property and communities; and to employ techniques with a demonstrated history of failure.

Solutions to Objection 1 & 2:

(1) Given the well-documented effects of climate change including greater heat, drought, and unstable weather, particularly wind, the Flathead needs to gear projects toward finding real solutions that address those factors – not the important, but secondary issue of fuels.

(2) All types of regeneration harvest including Seed Tree Harvest should be removed from the Project since these will open the forest up to the maximum amount of heating, drying, and wind – flying in the face of any claimed reduction in fire severity and rate of spread. The fact that these “treatments”, along with Commercial Thinning, would create 11.1 MMBF of sawtimber (Table 2) reveals that the true goal is “getting out the cut” not fire mitigation.

And, as anyone who has worked on wildfire management in the Rockies knows, the largest trees on any given site are the least likely to create a crown fire, while the small, flashy fuels generated by post-logging slash are the more hazardous. For this reason, all but the most cautious thinning operations in mature and old growth forests must be avoided.

(3) The spruce/fir and whitebark pine forests of the cool-moist and cold PVT areas are on a 100-200 year fire cycle; have missed no anticipated burns; are not overstocked; and therefore require no logging/thinning intervention by the Forest Service. In addition, these higher elevation areas are the most distant from the real Wildland Urban Interface where private structures and developments “meet and intermingle” with NFS lands as per HFRA.

(4) Table 3 shows the amount of canopy cover remaining after each type of vegetation management. While dense canopies are of concern to FNF because they may sustain a crown fire, they also cool the site, lower humidity, and reduce winds – lowering fire danger and severity under most conditions. The Project proposes to leave 30-70% canopy cover (average 50%) in commercial thins, understory removal, and whitebark pine restoration, and 30-50% in precommercial thins. The Flathead should consider leaving 50% canopy cover in all of these areas to lower heat, drought, and wind while still getting some of the benefits of thinning – in areas where that can be ecologically justified.

(5) Mechanical thinning of any kind in Recommended Wilderness is inconsistent with maintaining the wilderness character of the area and must be removed from the Project. Similarly, hand thinning in Recommended Wilderness, if it involves significant reduction in canopy cover (more than 30%) is contrary to maintaining wilderness character and must be removed. As noted in testimony to the U.S. House of Representatives by Dr. Dominick DellaSalla on 9/27/17, “burn severity” is lowest in Wilderness Areas and National Parks (Della Salla 2017).

(6) The vast majority of logging proposed by this Project is inconsistent with the Roadless Rule and must be removed. In addition, Della Salla (2017) reported to Congress that burn severity was at its second lowest level in Inventoried Roadless areas. The 2001 Roadless Area Conservation Rule (RACR) states that, “timber may not be cut, sold, or removed in inventoried roadless areas of the National Forest System, unless the Responsible Official determines that the removal of generally small timber is needed for one of the purposes specified in 294.13(b)(1), such as reducing the risk of uncharacteristic wildfire effects (emphasis added). Additionally, any removal of small diameter timber must also maintain or improve one or more of the roadless area characteristics, including, but not limited to: diversity of plant and animal communities; habitat for threatened or endangered species; and natural appearing landscapes with high scenic quality.”

(a) As noted above, the fire history of the North Fork is one of large, stand-replacing fires being the norm – not “uncharacteristic.”

(b) The single most important characteristic of IRAs is that they are roadless, unlogged, and wilder than developed landscapes – all factors that the Project will negatively impact – not “maintain or improve” as required by RACR.

(c) Since the Updated EA readily admits that it will negatively impact the secure core or critical habitat for listed grizzlies and lynx for 5-20 years, it completely fails the “maintain or improve” standard. Only in the case of hand thinning in and around Whitebark Pine stands might the Project be able to make a case.

(d) It should be noted that most of the Project area already provides for a “diversity of plant and animal communities”, and that Nature is in the process of restoring that balance developed over 10,000 years that the Flathead Forest has sent off the rails with a century of excessive logging, roading, and fire suppression. If the Flathead Forest was proposing a cautious thinning program based on the ecological “Precautionary Principle” that would be one thing, but of course it is not. As noted in Table 3, P: 14, most thinning efforts would remove an average of 50% of the canopy, which also fails to “maintain or improve natural appearing landscapes with high scenic quality.”

(7) The Project definition of WUI as shown in Map 1 and 2 bear no resemblance to the findings of actual fire science and must be withdrawn and corrected. First, as the Flathead Forest knows, the vast majority of research on creating effective “defensible space” around homes, structures, and communities has found that a buffer of approximately 100-150 is the critical area in which to reduce fire danger (See Attachments). Second, HFRA (2003) refers to WUI as that area where private land and structures “meet and intermingle” with NFS lands. No rational reading of this can conclude that this means 2, 3, and even 4 miles from those structures – including 2-3 miles inside Glacier National Park. Third, the EA tries unsuccessfully to make the case for this remote logging by noting that fires have historically started west of their inflated WUI and moved through it, and by logging miles away they may prevent it from reaching the WUI. Under this lapse in logic, the Flathead could argue that logging should start on the Kootenai Forest so fire never reaches the Flathead Forest to begin with.

The Flathead needs to abandon the WUI overreach exemplified by this Project and concentrate its efforts where they’re most likely to benefit the Actual Wildland Urban Interface. This means implementing a cooperative program with private homeowners to create a “defensible space” buffer around their homes, and where possible, from that buffer to the NFS boundary. The effectiveness of this could then be increased with a NFS buffer of perhaps 1/4 mile where light commercial and precommercial thinning could slow the advance of any approaching fires. This is particularly appropriate on lands that involve Inventoried Roadless Areas and Grizzly Bear Security Core where roads are prohibited.

If the Flathead Forest insists on retaining the Projects unrealistic WUI boundary 2-4 miles from private lands and structures, then this Draft Decision Notice and FONSI must be withdrawn and revised as part of a full EIS that includes a second Action Alternative as required by HFRA (2003).

OBJECTION #3: The Project fails to recognize that Grizzlies remain a Threatened Species; have not been delisted; that “Best Available Science” must still be followed; and that roads – temporary and permanent – must be decommissioned & reclaimed – not opened and retained; and must not be built at all in Secure Core.

(a) In 2011, the U.S. Fish and Wildlife Service (USFWS) decided – arbitrarily and with no basis in science or law – that the NCDE grizzly bear population was “recovered” and that federal agencies now only had to maintain existing habitat standards under a new 2011 Baseline. They based this decision on the estimated population and distribution of NCDE grizzlies in 2011 which they essentially declared “close enough for government work.” Unfortunately, as I have repeatedly reminded the Flathead Forest since then, those specific standards were struck down as “arbitrary and capricious and contrary to law” in 1997 by a federal court, and cannot be used to claim recovery of grizzlies.

Under federal law, a legal doctrine called “The Fruit of a Poisonous Tree” holds that any decisions based upon an original illegal decision are themselves illegal. And, since the Flathead Forest Plan, NCDE Conservation Strategy, NCDE Grizzly Amendments, and this Project all rely on the USFWS 2011 Baseline, they are illegal as they relate to grizzly bears and motorized access management.

(b) As noted in the Updated EA and Flathead Forest Plan (USDA 2018), The Forest had a backlog of 518 miles of roads waiting to be Decommissioned in 2011 under the “best available science” standard of Amendment 19 (A19) and its universally accepted “research benchmark” standard of 19/19/68 for grizzly bear security.

Since 2011, every major FNF project, including this one, has breached the 2011 Baseline and added to the Forests system roads rather than closing and decommissioning/reclaiming them. This is of course illegal under the 2018 Forest Plan that committed to, “maintain the on-the-ground conditions that have contributed to the growth and expansion of the NCDE grizzly bear population.” The Frozen Moose Project would add 22.7 miles of new, “temporary”, and re-opened historical roads. There are a number of problems with this, as follows:

* This adds to the existing 518-mile backlog of roads requiring decommissioning to improve grizzly habitat security. The fact that 13 miles of the Project’s roads are reopened historical roads that were closed to provide grizzly bear security represents an unacceptable backsliding on the part of the Forest Service. Once again, this violates the Forest Plan commitment to maintaining the 2011 Baseline.

(c) EA Table 2, P: 13 shows that these 13 miles are to be “returned to the NFS road system in an impassable state.” Impassable roads are a term invented out of thin air by the Flathead Forest to claim “Fake Closures” so the roads wouldn’t count against Total Motorized Route Density (TMRD) as noted in the Forest Plan definition:

“Impassable: a road that has been treated in such a manner that the road is blocked and there is little resource risk if road maintenance is not performed on a regular basis (self maintaining). These roads are not counted in the total motorized route density as long as the road (generally the first 50 to 300 feet) has been treated to make it inaccessible to wheeled motorized vehicles during the non-denning season... Impassable roads may remain on the inventoried road system if use of the road is anticipated at some point in the future.”

The sole purpose of this newly invented impassable definition is to allow roads that are damaging to grizzly bear security to remain on the system while pretending they don't exist by excluding them from TMRD – as noted, a violation of the 2011 Baseline. These fake closures were specifically designed to replace the Real closures called for under A19 under the headings of Reclaimed/Decommissioned Roads: “A road that has been treated in such manner so as to no longer function as a road or trail and has a legal closure order until reclamation treatment is effective.”

The effective result of the Flatheads substitution of “Impassable” for “Reclaimed or Decommissioned” is to dishonestly maintain hundreds of miles of “Ghost Roads” on the system damaging grizzly bear security, while pretending they don't exist. That practice needs to stop forest-wide beginning with this project.

(d) Updated EA Table 34, P: 72 indicates that there are 6 Bear Management Unit (BMU) Subunits and that 2 of the Subunits (Lower Whale and Red Meadow Moose) would fail Open Motorized Route Density (OMRD) standards before, during, and after the 5-year project; that Red Meadow Moose would Fail Total Motorized Route Density (TMRD) during the project; that Lower Whale fails Core standards before, during, and after the 5-year project; and Red Meadow Moose Fails Core during the project. With the EA admitting that because of these numbers the Project is “Likely to adversely affect” Threatened grizzly bears; the presence of a 518 mile backlog forest-wide of road reclamation; and excessive grizzly mortality in 2018, 2019, there can be no justification for adding another 22.7 miles of roads that throw the 2011 Baseline out the window.

(e) Updated EA, P: 64 notes that: The length of time for proposed activities that would “temporarily” affect access management is 5 years; the length of time for all proposed activities is 10 years; and that hiding cover damaged by the Project “should return in the most intensively harvest units in approximately 20 years (emphasis added).

As the Flathead Forest is well aware, there is no scientific evidence that grizzly bears – particularly females – can be disturbed and/or displaced from key habitats for 5 years – much less 10 or 20 – without serious adverse consequences. In fact, Updated EA P: 70 admits this when it says:

“Human activity levels could negatively impact grizzly bears causing disturbance or displacement from preferred habitats. Grizzly bears are highly dependent on learned habitat; disturbance or displacement into unknown territory may lead to sub-marginal nutrition, reduced reproduction, or greater exposure to adult predatory bears or human

food sources, which can lead to human-caused mortality (Kuennen, Van Eimeren, & Trechsel, 2017; Mace and Waller, 1997; USFWS, 2017).”

And while the EA falsely claims that there are standards and guidelines that limit the above problems, this is based not on science, but on wishful thinking. Grizzly bears cannot be shuffled around their preferred habitats like pawns on a chessboard to meet “manager preferences.”

(f) Hiding Cover: P: 70 says, “Intermediate treatments...could reduce the effectiveness of hiding cover due to effects on understory vegetation and are proposed on 6477 acres of habitat...Seed tree and prescribed burn treatments would reduce hiding cover...by approximately 743 acres in the affected subunits...Hiding cover could take up to 20 years to return after treatment depending on stand conditions.”

The Forest then claims that this isn’t a problem because 78 percent of the analysis area will provide hiding cover post-project. This assumes, with no scientific support, that grizzlies can lose 22 percent of their hiding cover for 5, 10, or 20 years with no negative consequences. This problem is compounded by the false claim on P: 63, and P: 70, Table 33 that only 743 acres of hiding cover would be compromised, when the EA shows (P: 70) that the total is 7220 acres – nearly 5 percent of the project area, not 1 percent as claimed.

This becomes especially serious given the decision in the Forest Plan and this EA to arbitrarily increase the maximum opening size from 40 acres (recognized for decades) to openings of 80, 90, or 150 acres with zero basis in grizzly bear science. The DDN/FONSI P: 56 tries to justify this by saying, “Pages 74-75 of the forest plan (FW-STD-TIMB-07) states, ‘exceptions to the 40-acre maximum opening size standard may occur when determined necessary to help achieve desired ecological conditions for the plan area.’”

“Table 21 on P: 75 of the forest plan provides maximum opening sizes dependent on potential vegetation types (PVT). The Frozen Moose Project includes regeneration harvest in the cool-moist PVT. For the cool-moist PVT, the maximum opening size identified on P: 75 of the forest plan is 150 acres.”

These declarations ignore a few facts, as follows: (a) These new opening sizes of 80, 90, and 150 acres have no basis in science, they’re simply manager “desired conditions); (b) a Forest Plan “desired ecological condition” does not trump the requirements of the ESA, and (c) The ESA still requires all federal agencies to use only the “best scientific and commercial data available” which this new “standard” flagrantly and arbitrarily ignores.

(g) Foraging Habitat: Updated EA P: 69 notes that the Project would decrease the amount of available forage due to ground disturbance, but this would be a “temporary” 5 years (plus extensions). The EA doesn’t explain, or seem particularly concerned about, what grizzly bears will eat on those compromised acres for 5 years – Maybe they can do “take-out.”

EA P: 69 admits that “Most activities included in the proposed action would occur in potential spring habitat for grizzly bears and therefore are subject to timing restrictions during the spring time period, April 1 – June 30. This would reduce displacement of bears foraging on spring foods located at lower elevations.”

This is based upon the false assumption that it’s OK to compromise critical spring habitat as long as you do it outside of the spring time period – that somehow that makes things all better. Of course this is biological nonsense. It also depends on how many years during a 5-year project (with extensions) the spring habitat is compromised – and how severely.

EA P: 69 says, “Riparian areas provide high-quality forage for grizzly bears. The analysis area includes over 25,000 acres of mapped riparian management zones that provide potential riparian foraging habitat for grizzly bears. Vegetation management would temporarily decrease foraging habitat on 806 acres within the riparian management zones.”

Along with avalanche chutes, RMZ’s are the most important habitat types for grizzlies during the entire non-denning period (Mace and Waller 1997), and provide a system of interlocking linkage zones holding ecosystem connectivity together, providing not only food and cover, but an essential way for grizzlies to move about the ecosystem. As such, they are some of the last areas FNF should be meddling in with logging operations.

(h) Prescribed Burns: Undated EA, P: 70 reports that prescribed burns would be implemented in late summer or fall; would include helicopter flights below 500 feet above ground level; would include multiple flights per day; and multiple attempts may be required to accomplish prescribed burns due to changing weather conditions, but these would be separated in time by at least 72 hours to allow for recovery from previous helicopter disturbance. These burns, accomplished by multiple helicopter flights present numerous biological and legal problems as follows:

- * Late summer and fall are in the critical “Hyperphagia” period for grizzlies when any displacement from key food sources can have serious implications for over-winter survival.

- * Multiple flights per day, perhaps over months or years based upon weather, virtually guarantee significant displacement from important food sources. In addition, the fact that these flights are below 500 feet will maximize displacement.

- * It appears that all of these helicopter flights would take place in Recommended Wilderness Areas (RWA) where they are illegal, and Inventoried Roadless Areas (IRA) where they are ill advised at best. To the extent that these burns involve mechanized/motorized activity they are illegal as well.

(i) Motorized Access and Activities in Secure Core: As noted in Section 4 of the Endangered Species Act (ESA 1983) “The Secretary shall make determinations required

by subsection (a)(1) solely on the basis of the best scientific and commercial data available to him..." For more than 25 years, the gold standard for best science on motorized access and grizzly bears in the NCDE has been the research of Mace and Waller (1997), Amendment 19 to the Flathead Forest Plan (1995) arising from it, and the 19/19/68 standard for Open Motorized Route Density (OMRD), Total Motorized Route Density (TMRD), and Core. To this day, these represent the best underlying "bear-based science" on providing habitat security for Threatened grizzly bears.

* The fact that the U.S. Fish and Wildlife Service (USFWS) stated its belief - based upon no valid science - that grizzlies were recovered in 2011 did nothing to change the underlying science of A19 and 19/19/68.

* The arbitrary decision by USFWS that it could establish a new fact-free 2011 Baseline for motorized access in grizzly habitat did nothing to change the underlying science.

* The completely science-free decision by USFWS and The Flathead that it could allow "temporary" increases in OMRD (+5%) and TMRD (+3%), and decreases in Security Core (-2%) over a 10-year running average, did nothing to change the underlying science. Grizzly bears have to survive one year at a time, and there's no research suggesting they can simply average good and bad years out to please the Forest Service. It should be noted that the Flathead Forest based this decision on just 7 forest projects from the entire 9600 sq.mi. NCDE Recovery Area (USDA 2018), making it clear their intent was to cherry-pick data from a tiny fraction of the ecosystem to support their roading and logging plans.

* Mace and Manley (1993) found that "Apparently grizzly bears adjust their habitat use patterns in part to both precise open road densities and precise total road densities. Unless a road is completely revegetated, managers should assume that some level of human use is occurring along closed roads, and grizzly bears will respond to that use...To date, the data suggest that if unroaded habitats are reduced in quantity and size, the number of adult females will eventually decline." The attempt by the Flathead to claim that projects spanning 5 years with 1-year extensions are "temporary" does nothing to change the underlying science. There is simply no evidence that any grizzly population will tolerate this level of disruption & displacement without serious consequences.

* A fundamental principle of Secure Core is that it is more than 500m from any road that's open during the non-denning period; contains no open motorized roads/trails itself; occurs in blocks of 2500 acres or more; and will see no motorized use during 10-year blocks of time.

Yet this Project throws all of these bear-based standards under the bus, as follows:

"The proposed action includes approximately 3336 acres of vegetation management in grizzly bear secure core, of which 1413 acres would be completed through hand treatment...Prescribed burns would also be implemented on 541 acres in secure core using a combination of helicopter ignition and hand work...The remaining 1381 acres of

vegetation management proposed in grizzly bear secure would be completed through mechanical treatment. This includes 913 acres of commercial thin, 245 acres of precommercial thin, and 224 acres of seed tree treatment (functional Clearcuts). It should be clear, even to the Forest Service, that all of this is the antithesis of what is allowed – scientifically, and therefore legally - in secure grizzly core.

In addition, the Project includes approximately eight miles of road construction/reconstruction in grizzly bear secure core. Most of this is in the Red Meadow Moose Subunit that fails OMRD before during and after the project, fails TMRD during the project, and fails Core during the project. Another half mile is proposed in the Lower Whale Subunit that fails OMRD and Core before, during, and after the project. Thus the Project, rather than comply with the best available science standard of 19/19/68, proposes to make matters worse for the listed grizzly bear. An illegal intrusion into grizzly bear secure core from start to finish.

The EA, P: 73 also notes that “Upon completion of project activities, all temporary roads would be restored and historical roads returned to the NFS road system would be made impassable to motorized use.” We are not told what “restored” means, but it’s a pretty safe bet that it doesn’t mean reclaimed/decommissioned as you would expect with a backlog of 518 miles of closure & decommissioning waiting. And returning the historical roads to the already bloated Flathead system that can’t be properly maintained is simply unacceptable. Adding insult to habitat injury is the fact that FNF admits it’s going to illegally remove these roads from the TMRD lists, allowing them to continue damaging grizzly security without being counted.

Solutions to Objection #3:

- * The Flathead must specifically admit that grizzly bears have not been found to be legally “recovered”; remain a Threatened species under full ESA protection; and that the Forest is still required to use the “best available science” – no exceptions, and no “loophole language.”

- * Flathead Forest must admit that the “Best Available Science” for the NCDE remains the landmark research of Mace and Waller (1997); that the federally recognized benchmark Standard of 19/19/68 for OMRD, TMRD, and Security Core remain in force and must be complied with; and that Amendment 19 to the Flathead Forest Plan best encapsulates those standards and cannot be arbitrarily discarded because the Flathead’s “Desired Condition” is to get back to building roads and logging in Grizzly Bear Core.

- * FNF must acknowledge that under the above standards, roads – “Temporary” or Permanent - are not allowed in Core, and that the Interagency Grizzly Bear Committee Guidelines (1998) say the same thing. This also remains true in the Project’s Fake Wildland Urban Interface extending up to 4 miles from any actual private lands or structures.

If the Flathead wants to designate a more scientifically supported WUI of ¼ mile; conduct all logging without new, or reopened roads and tracked or rubber-tired vehicles, then it should make that case.

* This Project, and the Forest Plan, must drop the scientifically inaccurate claim – invented out of thin air - that “temporary” increases in OMRD (+5%), TMRD (+3%), and declines in Secure Core (-2%) are supported by accepted, peer-reviewed research, and have no negative consequences on grizzlies. This isn’t Science at all – let alone “best available science.” As a corollary, the term “temporary”, in terms of 5-year projects plus one-year extensions must be dropped in relation to grizzly bears. There is no science demonstrating that grizzlies can tolerate this level of disruption and displacement as the EA itself makes clear.

* The equally fictitious term “Impassable” as a way to describe road “closures” is simply a transparently dishonest way for the Flathead to create a system of “ghost roads” and improperly not count them against TMRD. This use of “weasel words” to sneak through a larger inventory of system roads is professionally dishonest and irresponsible and must stop. Given the 518 mile backlog of real road closures identified in the Forest Plan (USDA 2018), all roads associated with this project that are not major arterials, must be reclaimed/decommissioned after the project so they no longer function as a road or trail, and Subunits not meeting the 19/19/68 standard brought into compliance.

* The Updated EA’s admission that this Project would reduce Hiding Cover by 7220 acres, Foraging Habitat in RMZ’s by 806 acres, engage in helicopter ignitions on 489 acres (mostly in Recommended Wilderness and therefore illegal), and would improperly enter and damage 3336 acres of Secure Core is completely inconsistent with the ESA’s requirement to protect listed species and avoid “harm” to their habitat – as well as being inconsistent with this Project’s FONSI. The Forest Service must completely rethink and/or remove these intrusions in a new EIS.

Objection #4: In the Response to Comments section of the Draft Decision Notice and FONSI (P: 51), the Forest continues to refuse to address the Cumulative Effects of this Project combined with the effects of the Crystal Cedar Project, Taylor Hellroaring Project, and Hellroaring Basin Project – all occurring in the Whitefish Range during overlapping time periods.

The Forest responds by saying, “The environmental analysis identifies the analysis areas for each resource to analyze potential effects. The projects that you have listed in your comments are not located within the analysis area for any of the resources and were determined to not have cumulative effects to the resources analyzed.”

This response – besides being unresponsive to a real substantive concern – is ecological nonsense, and suggests the Flathead Forest believes that activities it is undertaking outside of Frozen Moose have no impact inside the Project area or the larger ecosystem. Any moderately well trained wildlife biologist knows that this claim is absurd. The Whitefish Range is one seamless connected ecological unit with air, water, vegetation,

and wildlife flowing across the Forest's artificial project boundaries. Of course what happens in the southern Whitefish Range directly impacts what goes on the northern Whitefish Range, and the Flathead needs to stop making biologically absurd excuses and do the requested Cumulative Effects Analysis.

The Solution is Obvious.

Objection #5: The Project as presented fails to protect lynx not only as a Threatened species, but as one for which Critical Habitat has been designated. Further, the Project fails to avoid the destruction or adverse modification of lynx habitat, and has not been given an exemption by the Endangered Species Committee for these acts.

* Section 7(a)(2) of the Endangered Species Act says that "Each federal agency shall, in consultation with, and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency...is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee..."(emphasis added).

* P: 48 of the Updated EA says: "To ensure compliance with Standard VEGS1 in the South Trail Tepee LAU regeneration harvest of unit 102 must be completed prior to precommercial thinning in this LAU. The proposed action complies with standard VEGS2 because regeneration treatments would not occur on more than 15 percent of lynx habitat on National Forest System lands within any of the affected LAU's in a ten-year period (FW-STD-WL-04)."

Clearly this "destruction or adverse modification" of lynx habitat has been sanctioned by the 2018 Forest Plan, but there's no indication that any exemption has been asked for or granted by "the Committee" as required by law. In addition, the regeneration harvest (functional clearcut) unnecessarily creates large openings, which have little or no value to lynx (Squires, 2013).

On the same page, the EA says, "Proposed precommercial thinning in the WUI would reduce stand initiation lynx feeding habitat by an estimated 3455 acres, therefore an exemption to the VEGS5 standard for fuel treatment project within the WUI will be used to treat these acres. Vegetation management proposed in multistory lynx feeding habitat in the WUI includes regeneration treatment on 96 acres and intermediate treatments on 99 acres. An exemption to the VEGS6 standard for fuel treatment projects within the WUI will be used to complete these activities."

The above passage has the following problems: (1) It applies to an artificially inflated WUI that has no basis in fire science as noted earlier. Therefore, it creates an unjustified and unnecessary level of "destruction or adverse modification" of critical habitat; (2) Proposed precommercial thinning would reduce lynx feeding habitat by 3455 acres, and

lynx multistory feeding habitat by 195 acres (96 + 99 acres) – obviously an “adverse modification”, and (3) these intrusions would require two exemptions to a Forest Plan where the ink is barely dry, and while the Forest Plan may say this is alright, there’s no indication that the Endangered Species Committee has considered or approved either of these exemptions – as required by law.

* ESA Section 7(h) Exemption requires the following: “The Committee shall grant an exemption from the requirements of subsection (a)(2) for an agency action if, by a vote of not less than five of its members ...it determines on the record...that –

- (i) there are no reasonable and prudent alternatives to the agency action;
 - (ii) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and such action is in the public interest;
 - (iii) the action is of regional or national significance; and
 - (iv) neither the Federal agency concerned nor the exemption applicant made any irreversible or irretrievable commitment of resources prohibited by subsection (d); and
- (B) it establishes such reasonable mitigation and enhancement measures, including, but not limited to, live propagation, transplantation, and habitat acquisition and improvement, as necessary and appropriate to minimize the adverse effects of the agency action upon the endangered species, threatened species, or critical habitat concerned.”

It’s abundantly clear that the Flathead Forest has failed to meet any of the ESA standards to claim the above exemptions are valid.

* EA P: 48-49 says that, “Connectivity of forest cover would not be severed by proposed forest management.” This is a claim so vague as to be meaningless, and would technically be true even if there was only a 100 foot strip of trees remaining between heavily thinned and logged landscapes.

EA P: 50 shows no less than seven “Desired Conditions”(DC) it claims would protect lynx and their habitat, ignoring the fact that in the Flathead Forest, Desired Conditions are little more than an aspirational “wish list” that may, or may not, happen. In reference to the final desired condition, GA-NF-DC-07, the EA says, “This desired condition indicates that the North Fork and North Whitefish Range connectivity areas, which encompass most of the project area, provides habitat connectivity for wide-ranging species moving between Glacier National Park and the Whitefish Range.”

If this linkage zone were actually protected by enforceable Standards this would be great, but this passage only talks about East-West connectivity, when North-South connectivity down the Whitefish Range between British Columbia and the rest of the Northern Continental Divide Ecosystem (NCDE) is even more critical, and the Forest Service isn’t willing to make even a weak commitment to that.

It’s critical to remember the conclusions of Dr. John Weaver in “The Transboundary Flathead: A Critical Landscape for Carnivores in the Rocky Mountains” (2001, P: 5) that,

“Due to these unique characteristics and its strategic position as a linkage between National Parks in both countries, the Transboundary Flathead may be the single most important basin for carnivores in the Rocky Mountains.”

Equally important are the findings of Dr. Weaver in “Conservation Legacy on a Flagship Forest: Wildlife and Wildlands on the Flathead National Forest, Montana” (2014) – “The community of carnivores (17 species) on the Flathead National Forest appears unmatched in North America for its variety, intactness, and density of species that are rare elsewhere (P: 114)...Consequently, many scientists advocate the need for conservation corridors or linkages between habitats (existing and future) to support necessary movements and greater viability (P:5)...”

It’s this ecologically unique watershed that the Flathead Forest proposes to run roughshod through with this ill-conceived logging and roading proposal that willfully turns a blind eye to the habitat requirements of federally listed species.

* EA Table 22, P: 50 shows that all Lynx Analysis Units (LAU’s) are currently 83-94.5% lynx habitat (P: 57 says 96%), and under VEG S2 less than 1% of them would be regenerated after 10 years. Table 23, P: 53 indicates that post-Project, lower quality lynx habitat would have increased by 5090 acres, while high quality habitat would have declined by 3650 acres for a total of 8740 acres headed in the wrong direction and unlikely to fully recover for 20 years.

P: 53 also shows that the Project would reduce forest densities on 7539 acres of lynx habitat in the cool-moist PVT and cold PVT important to lynx while trying to justify this by saying, “These effects would be short-term and densities may increase over the long term due to reduced canopy cover...It would take approximately 20 years for this long-term effect. The loss of potential denning habitat would be partially balanced in that the removal of fuels would reduce the probability of fire spreading to remaining denning habitat of higher quality.”(emphasis added).

Nowhere does the Flathead Forest explain what lynx are supposed to do after it has “adversely modified” nearly 12 sq.mi. of habitat – for 20 years, and perhaps more. And while the Flathead tries to claim a benefit from lower fire danger, it’s important to realize that these two PVT’s are on a 100-200 year burn cycle, have missed no historic fire intervals, and are miles from any actual WUI. These cuts are little more than a “solution” in search of a “problem”, and willing to damage lynx critical habitat in the process.

To make matters worse, EA P: 54 indicates that post-Project the 12.54 miles of roads constructed/reconstructed (P: 56 says 16 miles) would be subject to “Fake road closures” as follows – “Temporary roads would be restored following completion of project activities. Historical roads returned to the NFS road system would be made impassable to motorized use upon completion of project activities.” These definitions are clearly designed to fool the public into believing these roads are closed when they’ve actually been stored for future use while the Flathead, dishonestly and illegally, refuses to count

them against TMRD. Only roads that have been reclaimed/decommissioned and no longer function as a road or trail can be omitted from TMRD.

Only briefly does the EA lapse into facts when it reports that, “Canada lynx could be temporarily displaced during proposed road management and aquatic restoration activities on historical roads. Impassable National Forest System roads could facilitate non-motorized access for trapping of other furbearer species.” And speaking from personal experience over 30 years, these roads also will function to allow coyotes, wolves, and cougar easy access into important lynx habitat.

* EA P: 59 reveals that under the No Action Alternative in the cool-moist and cold PVT’s cover and hiding habitat is good; “availability of denning and hiding sites would gradually increase, as would habitat used by numerous species preyed upon by Canada lynx.” In other words, this is currently great critical habitat for lynx in no need of USFS meddling. The EA provides the usual false caveat that this would increase fuel loading and chance of large fires, ignoring (a) that large, stand replacing fires are the norm in this area, and (b) these PVT’s are on a 100-200 year burn interval and therefore are exactly where they’re supposed to be – absent Forest Service logging and roading.

* EA P: 59-60 reports that under the proposed action, 8171 acres of designated Canada lynx critical habitat would be affected...with the majority (7179 acres, 88%) located in the WUI. It’s clear that if the Flathead drew scientifically sound WUI lines that were truly “adjacent” to private structures where they “meet and intermingle” with NFS lands, most of this illegal logging of critical habitat could be avoided.

* EA P: 60 claims that the proposed action would increase feeding habitat by approximately 720 acres through regeneration treatment of 403 acres and prescribed burns on 416 acres. Not revealed is that this increase would only happen up to 20 years down the road. Meanwhile, potential denning habitat would be reduced by approximately 1519 acres.

Vegetation management would reduce forest densities on 7805 acres of critical habitat in the cool-moist and cold PVT’s – areas especially important to lynx, with recovery being 20 years or more in the future. Once again, the Forest tries to claim that’s OK because it would reduce fire danger – in forest types that haven’t missed their fire interval of 100-200 years.

All of the above demonstrates a disturbing willingness by the Flathead Forest to unnecessarily and illegally enter and “damage or adversely modify” critical habitat for lynx, and to do so with no scientifically and legally demonstrated “Need.”

Solution:

(a) The Endangered Species Act clearly requires the Forest Service to avoid imperiling threatened species and avoiding Damage or Adverse Modification of critical habitat unless it has received an exemption from the Endangered Species Committee. If the

Flathead has such a permit it needs to produce it and the specific documents used to apply for and meet exemption requirements. If it does not have a valid exemption from the Committee, then all proposed work in lynx critical habitat must cease forest-wide.

(b) The Flathead must revise its entire Wildland Urban Interface policy to reflect a scientifically sound WUI that truly is “Adjacent to” private structures and lands and where those lands & structures “meet and intermingle” with NFS managed lands – not 1-4 miles away with no demonstrated fire mitigation benefit. This step alone will remove many of the conflicts with the habitat of lynx, grizzlies, and wolverine.

Objection #6: Failure to protect Riparian Management Zones; respond to my comments about them; or justify entry into them for the purpose of logging (The cutting of trees).

* DDN/FONSI P: 69, Appendix B responds to an RMZ comment that I did not make. My actual comments were as follows: “Similarly, DC #4 seems to be a solution in search of a problem when the Project admits that Riparian Management Zones ‘reflect a natural composition of native flora and fauna and conditions appropriate to natural disturbance regimes’, but then recommends ‘vegetation management activities’ anyway. As I noted in my Comments and Objections to the Forest Plan, unless the Forest service can demonstrate a clear ecological and science-based need to log in RMZ’s, it must stay the hell out! It’s particularly troubling to see from Project maps that the majority of Seed Tree cuts would occur immediately adjacent to RMZ’s.”

The Updated EA, P: 38 reiterates the above when it says, “In many areas, diverse structure in riparian management zones is promoted through natural ecosystem processes such as wildfire, insects, or disease.” In other words, RMZ’s represent exactly the type of healthy, resilient forest ecosystems created by nature over the last 10,000 years that the Flathead claims it wants to foster.

Yet what nature has created for free, the Flathead wants to meddle with by way of thinning and continued fire suppression – the very thing that created many of the overstocked forest that FNF now complains about – “Within the wildland-urban interface, fire managers will likely continue to suppress fires to protect values at risk such as private property and residences.” This ignores the fact that (a) protecting private property and residences is primarily the responsibility of private property owners working on their “defensible space, and (b) the vast majority of RMZ’s run East-West and are nowhere near any private lands and structures.

I would add here, as I did in my Mid-Swan Project comments, that riparian areas tend naturally to be shadier, cooler, with higher humidity, and lower winds than the surrounding forest and therefore, are more fire resistant. I would also note from my personal experience as a Park Ranger in Colorado, that protecting RMZ’s is critical to protecting landscape connectivity and that these areas serve as vital linkage zones for the majority of the species on the Forest.

Solution: Given the critical role these areas play in ecosystem integrity, the Forest Service must simply stay out as I noted above. This is especially true for adjacent seed

tree (functional clearcuts) logging that will open the area up to more heat, wind, lower humidity – and wildfire.

Objection #7: This Project – and the Forest Plan – fails to correctly measure, and adequately protect actual Grizzly Bear Security Core by arbitrarily, and without scientific basis, dropping high-intensity use, non-motorized trails from being buffered by 500m, and removed from Core habitat calculations.

* In its Response to Comments (DDN/FONSI 2020) P: 63, the Forest simply restates its position which I documented as being factually incorrect – both here, in the Forest Plan, and in the NCDE Conservation Strategy. Certainly the Forest service must realize that simply repeating a lie multiple times does not convert it into the truth. The clear attempt by the Forest is to artificially create Core where none exists.

In my Objection to the Forest Plan (USDA, 2018) and this Project, I said the following: “This unwarranted decision is based on the conclusion that ‘none of the cited studies documented increased mortality risk from foot or horse trails or population level impacts to grizzly bears from displacement.’ However, the Draft CS (2013) states that, ‘multiple studies document displacement of individual grizzly bears from non-motorized trails to varying degrees (Schallenberger and Jonkel 1980, Jope 1985, McLellan and Shackleton 1989, Kasworm and Manley 1990, Mace and Waller 1997, and White et al. 1999).” And as noted above, USFWS (2014) found that such displacement has consequences for grizzly breeding, feeding, denning, and survival.”(emphasis added).

Nonetheless, in “Responses” P: 63 the Flathead repeats the fallacy that, “The original recommendation to exclude areas within 500m of high use non-motorized trails from core area calculations was based on several untested assumptions (demonstrably false) regarding the potential impacts of such trails on grizzly bears. The approach is not clearly supported by the existing scientific literature.”(again, demonstrably false). The Flathead then goes on to list the above studies, which clearly demonstrate that FNF is wrong, before launching back into its false assumptions, as follows:

(a) “However, none of these studies documented increased mortality risk from foot or horse trails or population level impacts to grizzly bears from displacement. For example, while Mace and Waller (1996) found that grizzly bears were further than expected (i.e., displaced) from high-use trails (90 visitors/day) in the Swan Mountains, they reported that there were no historic or recent records of grizzly bear/human conflict in their study area.”

First, of course there were no conflicts – because the trails had displaced grizzlies from potential conflict areas – and potentially high quality habitat necessary for survival. Second, this study documented that grizzlies generally – not just individually – were displaced and potentially harmed. Third, the research didn’t document mortalities because that wasn’t their primary research purpose.

(b) “ Similarly, while grizzlies in Glacier National Park are displaced to some degree by non-motorized trails (Jope 1985, White et al. 1999), conflicts and grizzly bear mortalities there are extremely low and related almost exclusively to campgrounds and other human use areas.”

First, this ignores the fact that until very recently guns were not allowed in GNP, and even today, more than 95% of users don’t carry them, but increasing numbers do carry bear spray. Second, on most of the trails similar to those Mace and Waller (1996) cited in Jewel Basin, bears are displaced from trails and therefore from conflicts. Third, on the highest use GNP trails (hundreds to thousands of users per day) grizzlies have realized over decades that they aren’t being harmed and have simply habituated to people. That applies on virtually no FNF trails.

(c) “While we recognize that displacement merits concern because it can affect individual grizzly bears through habitat loss and disrupted foraging or social behaviors, there are no data demonstrating that these impacts translate into detectable impacts to population-level variables such as grizzly bear survival or reproduction.”

First, the Flathead Forest obviously isn’t listening to research that it has been told about repeatedly by me, or which it has reported on itself. As noted above, USFWS (2014) found that such displacement has consequences for grizzly breeding, feeding, denning, and survival. In addition, Updated EA P:70 accurately reports that, “Grizzly bears are highly dependent upon learned habitat; disturbance or displacement into unknown territory may lead to sub-marginal nutrition, reduced reproduction, or greater exposure to adult predatory bears or human food sources, which can lead to human-caused mortality (Kuennen, Van Eimeren, & Treschel, 2017; Mace and Waller, 1997; USFS 2017).”

All of the above involve survival threats to far more than “individual grizzly bears”, and it’s clear that the Flathead Forest knows it. Nor can the Flathead hide behind similar arbitrary pronouncements by USFWS since the ESA Section 7 is absolutely clear that all federal agencies bear an individual responsibility to avoid harming Threatened species or their habitat.

Second, it should be obvious to the Forest Service that if you disturb or displace enough “individual grizzly bears” with enough ill-advised projects or trails, it will be translated into harm to grizzlies at larger population levels. What the Forest Service is trying to do here, and in the Forest Plan, is to avoid considering the “death by a thousand cuts” decisions it’s inflicting on individual grizzlies and ultimately their larger populations.

Solution: The Flathead Forest needs to immediately abandon its ecologically bankrupt efforts both here, and forest-wide, to create fictional Core by not buffering high-use, non-motorized trails by 500m and removing them from inflated Core calculations.

Conclusion & Requested Remedy:

In conclusion, I request that the Flathead National Forest withdraw This Draft Decision Notice (DDN), Finding of No Significant Impact (FONSI) and the Updated Environmental Assessment; incorporate the Solutions I have made in my Objections; and develop a full Environmental Impact Statement (EIS) with at least one additional Action Alternative that incorporates and implements the 19/19/68 Research Benchmark Standard for access management and moves forward quickly on a program of road reclamation and decommissioning.

In addition, it's clear from my objections based upon established science and law, that the proposed Project will negatively impact grizzly bears, lynx, wolverine, riparian zones, and connectivity throughout the Whitefish Range. As such, the current FONSI has no basis in reality, must be withdrawn, and this Project replaced with one that clearly does not have Significant Impacts.

Sincerely,

R. Brian Peck
Independent Wildlife Consultant



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