July 12, 2021

Via Email

To: Objection Reviewing Officer

USDA Forest Service Northern Region
26 Fort Missoula Road

Missoula, MT 59804

Dear Objection Reviewing Officer:

Thank you for considering our Objection against the Draft

Decision Notice, FONSI, and Environmental Assessment for the

Stovepipe Project, Forest Service, Flathead National Forest,

Tally Lake Ranger District.

Identification of Objectors: Lead Objector:

Michael Garrity,

Executive Director,

Alliance for the Wild Rockies (AWR)

PO Box 505 Helena, MT 59624;

Phone 406-459- 5936.

And for Sara Johnson Native Ecosystems Council

PO Box 125

Willow Creek, MT 59760.

Signed for Objectors this 12th day of July 2021

/s/

Michael Garrity

Name of the Responsible Official, National Forest, Ranger District where Project is Proposed: The Responsible Official, Tally Lake District Ranger Bill Mulholland, has made available a Draft Decision Notice (DDN) and Finding of NO Significant

Impact (FONSI) for the Stovepipe Project. The Stovepipe project area is in the Tally Lake Ranger District of the Flathead National Forest (FNF) and covers approximately 32,400 acres northwest of the Flathead Valley on the east side of Reid Divide and south and east of Tally Lake. It includes primarily the Lost Creek and Cliff Creek drainages in Flathead County, MT.

Description of those aspects of the proposed project addressed by the objection, including specific issues related to the proposed project if applicable, how the objector believes the environmental analysis, Finding of No Significant Impact, and Draft Decision Notice (DDN) specifically violates law, regulation, or policy: The EA and DDN are contained in the USFS webpage at: https://www.fs.usda.gov/project/?project=58217. The selected alternative, alternative B with modifications which includes 5041 acres of commercial logging, 2164 acres of non-commercial logging and burning on National

Forest System lands, motorized access management, and a non-motorized trail system. The DDN calls for 5041 acres of commercial logging and 2164 acres of non-commercial logging and burning, and 15.3 miles of new roads. As a result of the Draft DN, individuals and members of the above mentioned groups would be directly and significant-ly affected by the logging and associated activities. Objectors (hereafter AWR) are conservation organizations working to ensure protection of biological diversity and ecosystem integrity in the Wild Rockies bioregion (including the FNF). The individuals and members use the project area for recreation and other forest related activities. The selected alternative would also further degrade the water quality, wildlife and fish habitat. These activities, if implemented, would adversely impact and irreparably harm the natural qualities of the Project Area, the surrounding area, and would further degrade the watersheds and wildlife habitat.

1.Objectors names and addresses:

Lead Objector Mike Garrity

Executive Director

Alliance for the Wild Rockies

P.O. Box 505

Helena, MT 59624

Phone 406 459-5936

And for

Sara Johnson

Native Ecosystems Council

P.O. Box 125

Willow Creek, MT 59760

2. Signature of Lead Objector: Signed this 12th day of July 2021 by Lead Objector,

/s/ Michael Garrity

3. Lead Objector:

Michael Garrity, Alliance for the Wild Rockies

4. Name of the Proposed Project, Responsible Official, National Forest and Ranger District where Project is: Stovepipe Project; Tally Lake District Ranger Bill Mulhollan is the Responsible Official;

The project is in the Swan Lake Ranger District of the Flathead National Forest. Ranger Mulhollan chose the proposed or selected alternative B modified which includes 7205 acres of vegetation management on National Forest System lands, motorized access management, and a non-motorized trail system in the Draft Decision Notice and FONSI.

NOTICE IS HEREBY GIVEN that AWR objects pursuant to 36 CFR section 218 to the Responsible Official's adoption of the selected Alternative. As discussed below, thug Creek Project as proposed violates the Clean Water Act, the National Environmental Policy Act (NEPA), the National Forest

Management Act (NFMA), the Endangered Species Act (ESA), the Gallatin Forest Plan and the Administrative Procedure Act (APA).

Location the Stovepipe project area lies northwest of the Flathead Valley on the east side of Reid Divide and south and east of Tally Lake. It includes primarily the Lost Creek and Cliff Creek drainages in Flathead County, MT. The project area is approximately is approximately 32,400 acres.

5. Specific Issues Related to the Proposed Projects, including how Objectors believes the Environmental Analysis or Draft Record of Decision specifically violates Law, Regulation, or Policy: We included this under number 8 below.

Thank you for the opportunity to object on the Stovepipe Project. Please accept this objection from me on behalf of the Alliance for the Wild Rockies and Native Ecosystems Council.

6. Suggested Remedies that would Resolve the Objection: We recommend that the “No Action Alternative” be selected. We have also made specific recommendations after each problem.

7. Supporting Reasons for the Reviewing Office to Consider: This landscape has very high wildlife values, including for the threatened grizzly bear, lynx, lynx critical habitat, bull trout, big game species, and wildlife dependent upon unlogged. The project area will be concentrated within some of the best wildlife habitat in this landscape which is an important travel corridor for wildlife such as lynx, bull trout, grizzly bears, and wolverine. The agency will also be exacerbating an ongoing problem of displacing elk to adjacent private lands in the hunting season due to a lack of security on public lands. The public interest is not being served by this project. Suggested Remedies to Resolve the Objection: We recommend that the “No Action Alternative” be selected. We have also made specific recommendations after each problem.

Supporting Reasons for the Reviewing Office to Consider This landscape has very high wildlife values, including for the threatened grizzly bear, and lynx, big game species, and wildlife dependent upon mature forest habitat. The project area is concentrated within some of the best wildlife habitat in this landscape which is an important travel corridor for wildlife such as lynx, grizzly bears, and wolverine. The agency will also be exacerbating an ongoing problem of displacing elk to adjacent private lands in the hunting season due to a lack of security on public lands. The public interest is not being served by this project. Thank you for the opportunity to object. NOTICE IS HEREBY GIVEN that, pursuant to 36 CFR Part 218, AWR objects to the Draft Decision Notice (DDN) and Finding of No Significant Impact (FONSI) with the legal notice published on May 27, 2021, including the Responsible Official's adoption of proposed or selected Alternative. AWR is objecting to this project on the grounds that implementation of the Selected Alternative is not in accordance with the laws governing

management of the national forests such as the FLPMA, ESA, NEPA, NFMA, the Flathead National Forest Forest Plan and the APA, including the implementing regulations of these and other laws, and will result in additional degradation in already degraded watersheds and mountain slopes, further upsetting the wildlife habitat, ecosystem and human communities. Our objections are detailed below. If the project is approved as proposed, individuals and members of the above-mentioned groups would be directly and significantly affected by the logging and associated activities. Objectors are conservation organizations working to ensure protection of biological diversity and ecosystem integrity in the Wild Rockies bioregion (including the FNF). The individuals and members use the Flathead National Forest and the project area for recreation and other forest related activities. The selected alternative would also further degrade the water quality, wildlife and fish habitat. These activities, if implemented, would adversely impact and irreparably harm the natural qualities of the Project Area, the

surrounding area, and would further degrade the watersheds and wildlife habitat.

Statements that Demonstrates Connection between Prior Specific Written Comments on the Particular Proposed Project and the Content of the Objection

ROADS

We wrote in our June 22, 2000 comments,

1. Please define how the project will increase displacement of grizzly bears based on traffic levels that will occur on any motorized route during project completion.

2. Please define how motorized traffic on all roads to be used for the project will affect the mortality risk to grizzly bears.

3. Please define what the measures will be used for identifying whether significant increases of impacts to grizzly bears in regards to displacement and mortality risk from the proposed activities will be triggered for the project, in order to

determine whether or not an environmental impact statement (EIS) is required for this project.

4. Please define how the agency will determine that all roads closed to the public during and after project completion are excluding illegal motorized activity.

5. Please define how closed roads can avoid increasing grizzly bear mortality risk due to hunter use, including poaching and mistaken identify for a black bear.

6. Please provide the data the agency has that berms and gates ensure that closed roads will have no illegal motorized activity, to support any claims that the project will not significantly increase mortality risk to grizzly bears due to poaching.

7. Since the level of take of the threatened grizzly bear is measured by open and total road density, please provide what the expected increase in grizzly bear mortality risk will be from increases in total roads as well as levels of motorized activity on roads, and why this would not be a significant increase over existing levels of mortality risk in this project area.

8. Please map and quantify the existing and planned levels of grizzly bear security in the project area, where there would be no management activity of active roads of any type; are the

existing security areas adequate as per conservation recommendations for the grizzly bear, and if not, why are these deficiencies not significant? What will be the grizzly bear security levels during and after project implementation, and if decreases will occur, why won't these decreases be significant, requiring an EIS?

9. The density of active motorized routes, including illegal use on these roads, is the most significant mortality risk to bears because bears have to travel through these areas to access security areas. Please provide an analysis of the open motorized route density that exists at present between security areas, and what this density will be during and after project completion. If the agency claims that no public access will be allowed on specific roads during and after project completion, supporting documentation from monitoring data needs to be provided.

10. Please summarize the past levels of grizzly bear mortality on the Tally Lake Ranger District, including whether or not these mortalities were related to road access; what measures will the agency take to address such mortalities, including within the Stovepipe project area?

The Forest Service responded:

The biological assessment found that the Stovepipe project would be likely to adversely affect grizzly bears. This

determination was made because 15.3 miles of new road construction and vegetation management that would temporarily reduce hiding cover is included in the proposal.

In Case 9:19-cv-0056-DWM the United States District Court for the District of Montana ruled on 6/24/21 that the Flathead Forest Plan was illegal because the Fish and Wildlife Service violated the ESA by not considering the impacts of ineffective road closures in its 2017 BiOp. The court also ruled that the FWS violated the ESA by using a flawed incidental take statement for grizzly bears and the core density standards and secure core habitat surrogate violate the ESA.

How many road closure violations have occurred in the Tally Lake Ranger District in the last 5 years? Since road closure violations are pervasive throughout the project area and the Forest, the FNF is in violation of not only the Forest Plan but also the big game security standards.

It is fair to assume that there are many more violations that regularly occur and are not witnessed and reported. It is also fair to assume that you have made no effort to request this available information from your own law enforcement officers, much less incorporate it into your analysis. Considering your own

admissions that road density is the primary factor that degrades elk and grizzly habitat, this is a material and significant omission from your analysis– all of your ORD and HE calculations are wrong without this information.

The veracity of the FS's inventory of system and nonsystem ("undetermined" or "unauthorized") roads is at issue here also. This is partly because the FS basically turns a blind eye to the situation with insufficient commitment to monitoring, and also because violations are not always remedied in a timely manner.

The Stovepipe project would violate the Forest Plan/Access standards, a violation of NFMA because of road closure violations.

The EA does not disclose how many years the existing core ares have provided the habitat benefits assumed under the Forest Plan. As pointed out, some has been lost (due to "private infrastructure development") and we're not told of other likely and forseeable reductions.

The EA does not take a hard look as road closure violations. It also shows the inadequacy of Forest Plan road density metrics.

Since we are awaiting the results of a lawsuit against the Forest Plan, the issuance of the Stovepipe draft DN is premature and subverts NEPA, NFMA, the APA and the ESA.

Have you closed or obliterated all roads that were promised to be closed or obliterated in the Travel Plan? Or, are you still waiting for funds to close or obliterate those roads? This distinction matters because you cannot honestly claim that you are meeting road density standards promised by the Travel Plan if you have not yet completed the road closures/obliterations promised by the Travel Plan. Furthermore, as noted above, you have a major problem with recurring, chronic violations of the road closures created by the Travel Plan, which means that your assumptions in the Travel Plan that all closures would be effective has proven false. For this reason, you cannot tier to the analysis in the Travel Plan because it is invalid.

Christensen et al (1993) states: "Any motorized vehicle use on roads will reduce habitat effectiveness. Recognize and deal with all forms of motorized vehicles and all uses, including administrative use." Please disclose this to the public and stop representing that roads closed to the public should not be included in habitat effectiveness calculations. The facts that (a) you are constructing or reconstructing over 15.3 miles of new system roads for this project, (b) you have problems with

recurring illegal use, which means that your conclusion that this Project will have no effect on open road density or habitat effectiveness is implausible to the point of being disingenuous. You cannot exclude these roads simply because you say they are closed to the public. Every road receiving motorized use must be included in the HE calculation. You must consider all of this road use in order to take a hard look that is fully and fairly informed regarding habitat effectiveness. In the very least you must add in all "non-system" roads, i.e. illegal roads, as well as recurring illegal road use (violations) in your ORD calculations.

Remedy: Choose the No Action Alternative or you must either complete new NEPA analysis with an EIS on this issue and reconsult with the FWS on this project and on the revised Forest Plan. Either way, you must update your open road density calculations to include all roads receiving illegal use.

The science is clear that motorized access via trail, road, or oversnow adversely impact habitat for the elk. Servheen, et al., 1997 indicate that motorized trails increase elk vulnerability and reduce habitat effectiveness, and provide scientific management recommendations.

Also, the EA fails to provide a meaningful analysis of cumulative impacts of recreational activities on elk. Wintertime is an especially critical time for elk, and stress from avoiding motorized activities takes its toll on elk and populations.

Scientific information recognizes the importance of thermal cover, including Lyon et al, 1985. Christensen et al., 1993 also emphasize "maintenance of security, landscape management of coniferous cover, and monitoring elk use..." This USFS Region 1 document also states, "management of winter range to improve thermal cover and prevent harassment may be as important as anything done to change forage quantity or quality."

You cannot exclude roads simply because you say they are closed to the public. Every road receiving motorized use must be included in the HE calculation. You must consider all of this road use in order to take a hard look that is fully and fairly informed regarding habitat effectiveness. In the very least you must add in all "non-system" roads, i.e. illegal roads, as well as recurring illegal road use (violations) in your ORD calculations.

LYNX

We wrote in our comments:

11. Currently, the only scientific means of conserving lynx is to identify female lynx home ranges and ensure that they meet the minimum habitat requirements of at least 50% older, dense mature forest, and at least 65% total travel cover, which would

be dense old and younger regenerating forests. Please define how these recommendations will be implemented in the Stovepipe Project Area to avoid random habitat removal on lynx, which could result in elimination of female lynx home ranges.

12. If the agency does not know if the proposed actions will eliminate one or more female lynx home ranges, which average about 13,500 acres in size, how can a determination be made that no significant impacts will result from the project?

13. There are currently no standards or guidelines in the Lynx Amendment that require a minimum amount of snowshoe hare habitat within occupied or critical lynx habitat. Given this, how can the agency implement the Stovepipe Project without any management of snowshoe hare habitat, while concluding that there will be no significant impacts on hares? All of the proposed treatments will remove and fragment snowshoe hare habitat, so will remaining habitat maintain enough snowshoe hare home ranges to ensure adequate prey for female lynx raising kittens? Looking at the proposed treatments and map, it is clear that this project will have massive impacts on snowshoe hare populations, and these impacts need to be fully evaluated as per the NEPA, which requires high quality information be provided to the public. Please define how many hare home ranges will be removed with the project, and why this would not significantly impact the viability of hares in this landscape.

14. Please demonstrate compliance with the Forest Plan standard as per the Lynx Amendment that habitat connectivity "will be maintained" in this critical habitat. Connectivity has been defined as dense, older forests and dense younger regenerating forests, for a minimum level of 65% in a female lynx's home range. Please map these home ranges at approximately 13,500 acres, and define habitat connectivity levels before and after project completion. If there are significant losses in habitat connectivity, why aren't these considered to be significant?

15. Please evaluate the impact of roads on lynx based on traffic levels, within each approximate female home range of 13,500 acres. How many miles of motorized routes with moderate to high traffic levels defined for lynx can increase within a female lynx's home range without triggering significant avoidance/displacement responses by lynx?

16. Recent monitoring data on lynx indicate that populations in Washington State are in decline, including due to the loss of mature forests due to wildfire. Losses of mature forest habitat are expected to be having similar impacts on lynx in Montana. Since lynx have been shown to be in decline due to the loss of mature forest habitat, how can similar losses of mature forest habitat in the Stovepipe Project Area be considered an nonsignificant to the lynx population trend, including within critical habitat?

17. Recent monitoring of lynx has demonstrated that information on lynx populations can be done in relatively simple ways using cameras that detect lynx. Since identification of lynx female home ranges is essential to conservation, this project needs to be put on hold until the agency can invest the time and money to determine where, if any, female lynx home ranges exist in the project area and thus will be managed based on the known requirements identified during the last several years, as opposed to requirements in the Lynx Amendment which were based on 1989 recommendations that have yet to be verified as per effectiveness for lynx conservation.

The Forest Service responded:
Canada lynx – may affect, likely to adversely affect•Canada lynx critical habitat – may affect, not likely to adversely affect

The Northern Rockies Lynx Management Direction in appendix A, as modified by the Flathead National Forest's forest plan record of decision, shall be applied.The updated EA displays the potential effects of the proposed activities on lynx habitat. The project activities are in compliance with FW-STD-WL-04.

"Approximately 56 percent of these LAUs is designated as Canada lynx critical habitat. Alternative B would decrease potential lynx feeding habitat (PCE1a) by approximately 178 acres between both LAUs. Potential denning habitat (PCE1c)

would be reduced by approximately 615 acres through a variety of treatments only in the Lost Tally LAU." (pg.25)
We wrote in our comments:

"Alternative B would implement 940 acres of precommercial thinning in areas in the WUI that function as stand initiation foraging habitat for lynx. These treatments would take about 20 years to result in predicted lynx use." (pg. 29)

Canada lynx and critical habitat
The biological assessment found that the Stovepipe project would be likely to adversely affect both Canada lynx and Canada lynx critical habitat. This determination was made because project activities would decrease lynx foraging habitat by 1,741 acres throughvegetation management activities. While this decrease in lynx foraging habitat in the critical habitat area is adverse it was not considered significant because the Flathead National Forest is still providing adequate critical habitat outside of the wildland-urban interface that would not jeopardize the overall population of Canada lynx. Landscape-level travel connections would also be maintained. (DDN p. 12).

The Lynx Amendment has not undergone any Forest Plan amendments to allow the changed definitions of lynx structural stages the agency is now using, including those used in the

Stovepipe analysis. The Lynx Amendment needs to be amended to provide the current best science definitions of lynx habitat, and include standards for each of these 4 habitat categories as defined by the current best science (Holbrook et al. 2019).

A big problem with the Forest Plan and the NRLMD is that it allows with few exceptions the same level of industrial forest management activities that occurred prior to Canada lynx ESA listing. The FS approval and implementation of the NRLMD and the revised Flathead National Forest Forest Plan is arbitrary and capricious, violates NEPA's hard look requirement and scientific integrity mandate and fails to apply the best available science necessary to conserve lynx. The NRLMD or the revised Flathead Forest Plan contain no protection or standard for conservation of winter lynx habitat (old growth forests).

The EA doesn't disclose if the FS conducted lynx occurrence surveys of habitat in the LAUs.

The EA doesn't disclose if surveys target snowshoe hare occurrence data in these stands newly considered unsuitable for lynx. Also, the EA doesn't indicate if the FS surveyed any areas (proposed for logging and/or burning or not) thought to not be lynx habitat based on mapping or stand data were surveyed to confirm unsuitable habitat conditions.

The EA explains the project area is within Lynx s Critical Habitat Unit.

The current science demonstrates that lynx must travel between areas of high hare densities and resist traveling through low cover areas in winter. The EA fails to identify the amount of non-cover or low-cover areas that will be created from the project.

It appears the FS doesn't have a coherent strategy for recovering lynx from their Threatened status, including linking currently populated areas with each other through important linkages such as project area LAUs.

The EA fails to analyze and disclose cumulative impacts of recreational activities on lynx, such as snowmobiles. As the KNF's Galton FEIS states, "The temporal occurrence of forest uses such ... winter (skiing and snowmobiling) ... may result in a temporary displacement of lynx use of that area..."

The Stovepipe EA and DDN fail to quantify and disclose the cumulative effects on Canada lynx due to trapping or from use of the road and trail networks in the project area.

In failing to properly analyze and disclose cumulative effects, the EA violates NEPA and the ESA.

The EA claims that sufficient denning habitat occurs in the LAU, but it fails to explain how it arrived at that conclusion. Habitat capacity for denning will be impaired by project activities.

The USFWS listed the Canada lynx as a threatened species under the Endangered Species Act in 2000 due to "lack of guidance for conservation of lynx and snowshoe hare habitat..." and subsequent authorization of actions that may cumulatively

adversely affect the lynx. Relatively little is known about lynx in the contiguous United States. Historically, lynx inhabited states spanning from Maine to Washington, but it is unknown how many lynx remain.

Lynx are highly mobile and generally move long distances [greater than 60 mi. (100 km.)]; they disperse primarily when snowshoe hare populations decline; subadult lynx disperse even when prey is abundant, presumably to establish new home ranges; and lynx also make exploratory movements outside their home ranges. 74 Peg. Reg. at 8617. The contiguous United States is at the southern edge of the boreal forest range, resulting in limited and patchy forests that can support snowshoe hare and lynx populations.

Lynx subsist primarily on a prey base of snowshoe hare, and survival is highly dependent upon snowshoe hare habitat, forest habitat where young trees and shrubs grow densely. In North America, the distribution and range of lynx is nearly "coincident" with that of snowshoe hares, and protection of snowshoe hares and their habitat is critical in lynx conservation strategies.

Since more often than not when the FS conducts logging projects in LAUs surveys of stands for lynx habitat result in less suitable habitat than previously assumed, the FS needs to take a few steps backward and consider that its range-wide Canada lynx suitable habitat estimations were too high.

Squires et al. (2013) noted that long-term population recovery of lynx, as well as other species as the grizzly bear, require maintenance of short and long-distance connectivity. The

importance of maintaining lynx linkage zones is also recognized by the FS's Lynx Conservation Assessment and Strategy (LCAS), as revised in 2013, which stresses that landscape connectivity should be maintained to allow for movement and dispersal of lynx.

Squires et al. (2013) noted in their research report that some lynx avoided crossing highways; in their own report, they noted that only 12 of 44 radio-tagged lynx with home ranges including 2- lane highways crossed them.

The current best science indicates that lynx winter foraging habitat is critical to lynx persistence (Squires et al. 2010), and that this habitat should be "abundant and well-distributed across lynx habitat." (Squires et al. 2010; Squires 2009.) Existing openings such as clearcuts not yet recovered are likely to be avoided by lynx in the winter. (Squires et al. 2010; Squires et al. 2006a.)

Lynx winter habitat, provided only in older, multi-storied forests, is critical for lynx preservation. (Squires et al. 2010.) Winter is the most constraining season for lynx in terms of resource use; starvation mortality has been found to be the most common during winter and early spring. (Squires et al. 2010.) Prey availability for lynx is highest in the summer. (Squires et al. 2013.)

Openings, whether small in uneven-aged management, or large with clearcutting, remove lynx winter travel habitat on those affected acres, since lynx avoid openings in the winter. (Squires et al. 2010.)

Squires et al., 2010 reported that lynx winter habitat should be "abundant and spatially well- distributed across the landscape." Those authors also noted that in heavily managed landscapes, retention and recruitment of lynx habitat should be a priority.

The LCAS (Ruediger et al. 2000) recommends, until conclusive information is developed concerning lynx management, the agencies retain future options; that is, choose to err on the side of maintaining and restoring habitat for lynx and their prey. To err on the side of caution, the KNF would retain all remaining stem exclusion forests for recruitment into lynx winter habitat, so that this key habitat would more closely resemble historic conditions.

As early as 2000, the LCAS noted that lynx seem to prefer to move through continuous forest (1- 4); lynx have been observed to avoid large openings, either natural or created (1-4); opening and open forest areas wider than 650 feet may restrict lynx movement (2-3); large patches with low stem densities may be functionally similar to openings, and therefore lynx movement may be disrupted (2-4). Squires et al. 2006a reported that lynx tend to avoid sparse, open forests and forest stands dominated by small-diameter trees during the winter. Squires et al. 2010 again reported that lynx avoid crossing clearcuts in the winter; they generally avoid forests composed of small diameter saplings in the winter; and forests that were thinned as a silvicultural treatment were generally avoided in the winter.

Squires et al. 2010 show that the average width of openings crossed by lynx in the winter was 383 feet, while the maximum width of crossed openings was 1240 feet.

Recent scientific findings undermine the Forest Plan/NRLMD direction for management of lynx habitat. This creates a scientific controversy the FS fails to resolve, and in fact it essentially ignores it.

For one, Kosterman, 2014 found that 50% of lynx habitat must be mature undisturbed forest for it to be optimal lynx habitat where lynx can have reproductive success and no more than 15% of lynx habitat should be young clearcuts, i.e. trees under 4 inched dbh. Young regenerating forest should occur only on 10-15% of a female lynx home range, i.e. 10-15% of an LAU. This renders inadequate the agency's assumption in the Forest Plan/NRLMD that 30% of lynx habitat can be open, and that no specific amount of mature forest needs to be conserved. Kosterman, 2014 demonstrates that Forest Plan/NRLMD standards are not adequate for lynx viability and recovery.

Also, the Forest Plan essentially assumes that persistent effects of vegetation manipulations other than regeneration logging and some intermediate treatments are essentially nil. However, Holbrook, et al., 2018 "used univariate analyses and hurdle regression models to evaluate the spatio-temporal factors influencing lynx use of treatments." Their analyses "indicated ...there was a consistent cost in that lynx use was low up to ~10 years after all silvicultural actions." (Emphasis added.) From their conclusions:

First, we demonstrated that lynx clearly use silviculture treatments, but there is a ~10 year cost of implementing any treatment (thinning, selection cut, or regeneration cut) in terms of resource use by Canada lynx. This temporal cost is associated with lynx preferring advanced regenerating and mature

structural stages (Squires et al., 2010; Holbrook et al., 2017a) and is consistent with previous work demonstrating a negative effect of precommercial thinning on snowshoe hare densities for ~10 years (Homyack et al., 2007). Second, if a treatment is implemented, Canada lynx used thinnings at a faster rate post-treatment (e.g.,~20 years posttreatment to reach 50% lynx use) than either selection or regeneration cuts (e.g., ~34–40 years post-treatment to reach 50% lynx use). Lynx appear to use regeneration and selection cuts similarly over time suggesting the difference in vegetation impact between these treatments made little difference concerning the potential impacts to lynx (Fig. 4c). Third, Canada lynx tend to avoid silvicultural treatments when a preferred structural stage (e.g., mature, multi-storied forest or advanced regeneration) is abundant in the surrounding landscape, which highlights the importance of considering landscape-level composition as well as recovery time. For instance, in an area with low amounts of mature forest in the neighborhood, lynx use of recovering silvicultural treatments would be higher versus treatments surrounded by an abundance of mature forest (e.g., Fig. 3b). This scenario captures the importance of post-treatment recovery for Canada lynx when the landscape context is generally composed of lower quality habitat. Overall, these three items emphasize that both the spatial arrangement and composition as well as recovery time are central to balancing silvicultural actions and Canada lynx conservation.

So Holbrook et al., 2018 fully contradict Forest Plan assumptions that clearcuts/regeneration can be considered useful lynx habitat as early as 20 years post-logging.

Results of a study by Vanbianchi et al., 2017 also conflict with Forest Plan/NRLMD assumptions: “Lynx used burned areas as early as 1 year postfire, which is much earlier than the 2–4 decades postfire previously thought for this predator.” The NRLMD erroneously assumes clearcutting/regeneration logging have basically the same temporal effects as stand-replacing fire as far as lynx re-occupancy.

Kosterman, 2014, Vanbianchi et al., 2017 and Holbrook, et al., 2018, Holbrook 2019 demonstrate that Forest Plan direction is not adequate for lynx viability and recovery, as the FS assumes. Holbrook 2019 such all lynx habitat must be surveyed. You have not done this.

The Forest Plan/FEIS fail to describe the quantity and quality of habitat that is necessary to sustain the viability of the Canada lynx.

The WUI exception is arbitrary and capricious and in violation of NEPA, NFMA, the APA, and the ESA. There is no scientific evidence that lynx can withstand a loss of 15% of an LAU.

Choose the No Action Alternative or withdraw the DDN and write an EIS for the project that fully complies with the law and a SEIS for the Forest Plan to reflect the best available science and fully complies with the law.

PURPOSE AND NEED

We wrote in our comments;

26. The wolverine is known to be highly sensitive to the human footprint, including motorized use on roads. Please provide an analysis of the patch sizes of unroaded habitat in the project area before and during implementation. What level/percentage of unroaded habitat is considered necessary to provide habitat for the wolverine within a given landscape, and how will the project affect this level? What will be the change in unroaded blocks of habitat in the project area after implementation? This should be included within a biological assessment.

27. Will the project affect wolverine access to big game winter ranges, and if so, how much of a habitat loss would this be considered for this species?

What amount of habitat loss to big game winter ranges would be considered a significant impact on this proposed species?

28. Please don't define wolverine habitat as "rocks and ice." Please provide a valid analysis of how wolverine are known to use habitats, from upper elevation down to lower elevations, including winter range for elk and moose.

29. Please define how Forest Plan monitoring is being done for the proposed wolverine, and threatened lynx and grizzly bear. What current monitoring and/or available population trend data shows that the type of vegetation management proposed for this area does not significantly degrade habitat conditions for these species?

30. What does Forest Plan monitoring show as per the occupancy of various habitat conditions on the Forest, including those with extensive road systems and vegetation treatments, for wolverine, lynx and grizzly bears. How have

past management actions been evaluated as per Forest Plan monitoring to proceed with new vegetation treatments and road management?

The Forest Service responded:

Wolverine – no jeopardy

THE AGENCIES MUST CONDUCT ESA CONSULTATION FOR THE
WOLVERINE.
Wolverines may be present in the Project area. The Forest Service concedes that the Project "may affect" wolverines. The agencies' failure to conduct ESA consultation for a species that may be present and may be affected by the Project violates the ESA. Wolverines are currently warranted for listing under the ESA. As the agencies are well aware, the scheduled, court ordered listing date for the wolverine is this year. In fact, FWS has recently filed the attached document in federal court committing to a January 18, 2013 listing date for the wolverine. Accordingly, the wolverine will be listed under the ESA before the final decision is made to authorize and implement this Project, and long before any project activities commence. Regardless, even candidate species must be included in a biological assessment. The Forest Service's biological assessment for the Project does not address wolverines. The Forest Service needs to do a supplemental EIS/ESA consultation that recognizes the wolverine as an ESA-listed species in the project area.

THE AGENCIES MUST PREPARE REGIONAL DIRECTION FOR THE
WOLVERINE.
The agencies do not have in place any recovery plan and regional management direction
amendment for wolverine.

Page 46 of the ROD says “The alternatives would not affect the ability of wolverines to move through the area and would not produce any barriers to wolverine movement. Impacts on winter foraging would be minimal. This is not based on the best available science and is a violation of NEPA, NFMA, the ESA and the APA.

Ruggierio et al 2000;

> Wolverines generally scavenge for ungulates along valley bottoms and forage and den in remote, high-elevation areas (Hornocker and Hash 1981; Morgan and Copeland 1998). Thus if mangers wished to provide habitat for wolverines, they could pay particular attention in the planning process to ungulates winter range and other aspects of habitat quality for ungulates to provide a consistent supply of carcasses for wolverine to scavenge. In addition, wolverines generally avoid areas of human activity. To limit the threat of human-caused disturbance or mortality, managers could restrict access to portions of the landscape where wolverines are most likely to occur.

Wolverine Ecology and Conservation in the Western United States, by Robert Michael Inman Faculty of Natural Resources and Agricultural Sciences Department of Ecology, Uppsala, 2013 wrote on page 26, "Wolverines selected areas of higher elevation, where there was steeper terrain, more snow, fewer roads, less human activity, and which were closer to high elevation talus, tree cover, and areas with April 1 snow cover."

On page 29, Inman wrote, "While there is no indication that dispersal is currently being limited by human development in a manner that has negative consequences for the wolverine metapopulation, it is reasonable to assume that willingness to disperse through developed areas and/or survival of dispersers moving through developed areas would be impacted by increasing road and housing densities at some point."'

The Forest Service responded on page 5 of the B.A. "Proposed species (wolverine Gulo gulo luscus) were addressed in a separate document covered under a programmatic consultation (USDA Forest Service 2014b, USDI Fish and Wildlife Service 2014b)."

The Forest Service did not prepare a biological assessment for wolverine for the project. Instead, the Forest Service produced regional guidance for all of the National Forests in Forest Service Region One/Northern Region that directs agency biologists not to provide an analysis of wolverine jeopardy in project biological assessments, and not to provide any such analysis to FWS for a concurrence.

In its Order dated 4/4/16, the U.S. District Court of Montana ruled: “The United States Fish & Wildlife Service's Withdrawal of its Proposed Rule to list the distinct population segment of the North American wolverine occurring in the contiguous United States as a threatened species under the Endangered Species Act, 79 Fed. Reg. 47,522 (Aug. 13, 2014), is hereby VACATED.” Therefore the status of the wolverine is Proposed for listing under the ESA, and the FS must undergo formal consultation with the U.S. Fish & Wildlife Service.

Wolverines use habitat ranging from Douglas-fir and lodgepole pine forest to subalpine white-bark pine forest (Copeland et al., 2007). Lofroth (1997) in a study in British Columbia, found that wolverines use habitats as diverse as tundra and old-growth forest. Wolverines are also known to use mid- to low-elevation Douglas-fir forests in the winter (USDA Forest Service, 1993).

Aubry, et al. 2007 note that wolverine range in the U.S. had contracted substantially by the mid- 1900s and that extirpations are likely due to human-caused mortality and low to nonexistent immigration rates.

May et al. (2006) cite: “Increased human development (e.g. houses, cabins, settlements and roads) and activity (e.g. recreation and husbandry) in once remote areas may thus cause reduced ability of wolverines to perform their daily activities unimpeded, making the habitat less optimal or causing wolverines to avoid the disturbed area (Landa & Skogland 1995, Landa et al. 2000a).”

Ruggiero, et al. (2007) state: “Many wolverine populations appear to be relatively small and isolated. Accordingly, empirical information on the landscape features that facilitate or impede immigration and emigration is critical for the conservation of this species.”

Ruggiero et al. (1994b) recognized that “Over most of its distribution, the primary mortality factor for the wolverines is trapping.” Those authors also state, “Transient wolverines likely play a key role in the maintenance of spatial organization and the colonization of vacant habitat. Factors that affect movements by transients may be important to population and distributional dynamics.”

Roads and human density are important factors influencing current wolverine distribution (Carroll et al. 2001b); and wolverine habitat selection is negatively correlated with human activity – including roads (Krebs et al. 2007). Wolverine occurrence has shown a negative relationship with road densities greater than 2.8 mi/mi^2 (1.7 km/km^2) (Carroll et al. 2001b).

(T)he presence of roads can be directly implicated in human-caused mortality (trapping) of this species. Trapping was identified as the dominant factor affecting wolverine survival in a Montana study (Squires et al. 2007).

Krebs et al. (2007) state, “Human use, including winter recreation and the presence of roads, reduced habitat value for wolverines in our studies.”

Wisdom et al. (2000) state:
Carnivorous mammals such as marten, fisher, lynx, and

wolverine are vulnerable to over- trapping (Bailey and others 1986, Banci 1994, Coulter 1966, Fortin and Cantin 1994, Hodgman and others 1994, Hornocker and Hash 1981, Jones 1991, Parker and others 1983, Thompson 1994, Witmer and others 1998), and over-trapping can be facilitated by road access (Bailey and others 1986, Hodgman and others 1994, Terra-Berns and others 1997, Witmer and others 1998).

...Snow-tracking and radio telemetry in Montana indicated that wolverines avoided recent burns (Hornocker and Hash 1981).

Copeland (1996) found that human disturbance near natal denning habitat resulted in immediate den abandonment but not kit abandonment. Disturbances that could affect wolverine are heli-skiing, snowmobiles, backcountry skiing, logging, hunting, and summer recreation (Copeland 1996, Hornocker and Hash 1981, ICBEMP1996f). Please find Hornocker attached.

Carroll et al. (2001b) state:
The combination of large area requirements and low reproductive rate make the wolverine vulnerable to human-induced mortality and habitat alteration. Populations probably cannot sustain rates of human-induced mortality greater than 7–8%, lower than that documented in most studies of trapping mortality (Banci 1994, Weaver et al. 1996).

... (T)he present distribution of the wolverine, like that of the grizzly bear, may be more related to regions that escaped human settlement than to vegetation structure.

Wisdom et al. (2000) offered the following strategies:

- Provide large areas with low road density and minimal human disturbance for wolverine
  and lynx, especially where populations are known to occur. Manage human activities and
  road access to minimize human disturbance in areas of known populations.

- Manage wolverine and lynx in a metapopulation context, and provide adequate links
  among existing populations.

- Reduce human disturbances, particularly in areas with known or high potential for
  wolverine natal den sites (subalpine talus cirques).

- The EA fails to consider and use the best available science and fails to insure population viability in violation of NFMA and additionally, violating NEPA's requirements that the FS demonstrate scientific integrity. See 36 C.F.R. 219.3; 40 C.F.R. 1502.24.
  The FS fails to set meaningful thresholds and assumes that project-caused habitat losses are insignificant. Of such analyses, Schultz (2010) concludes that "the lack of management thresholds allows small portions of habitat to be eliminated incrementally without any signal when the loss of habitat might constitute a significant cumulative impact." In the absence of meaningful thresholds of habitat loss and no monitoring of wolverine populations at the Forest level,

projects will continue to degrade wolverine habitat across the Beaverhead-Deerlodge NF over time.

Remedy: Choose the No Action Alternative and consult with the FWS on the impact of the project and on the Forest Plan on wolverines. THE AGENCIES MUST COMPLETE A BIOLOGICAL ASSESSMENT, Get a BIOLOGICAL OPINION from FWS, INCIDENTAL TAKE STATEMENT, AND MANAGEMENT DIRECTION

Monarch Butterfly.

Monarch butterflies have been proposed for listing under the ESA. This is new information that was not available when we submitted our comments.

The project is in violation of the ESA, NFMA, and the APA for not formally consulting with the FWS on the impact of the project on the Monarch butterfly.
Remedy
Please formally consult with the FWS on the impact of the Stovepipe project on the Monarch Butterfly.

Bull trout

In Case 9:19-cv-0056-DWM the United States District Court for the District of Montana ruled on 6/24/21 that the Flathead Forest Plan was illegal because the Revised Forest Plan departed from Amendment 19's culvert removal requirements and violated the ESA as it relates to bull trout. He also wrote that the Plaintiffs also succeed on their ESA claim that the Forest Service improperly relied on the flawed aspects of the 2017 BiOp.

This is new information that was not available during the comment period.

Remedy:

Choose the No Action Alternative or write an EIS that fully complies with the law and reconsult with the FWS on this project and the Revised Forest Plan on the effects on bull trout.

Thank you for your time and consideration of our concerns.

Sincerely yours,
Mike Garrity
/s/
(Lead Objector)
Executive Director
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