

APRIL 24, 2022

Objection Reviewing Officer
USDA Forest Service, Intermountain Region
324 25th Street
Ogden, UT 84401

Transmitted this date via email to: objections-intermtn-regional-office@usda.gov

To the Reviewing Officer:

This letter is an objection, pursuant to 36 CFR §218, to the Cold July Forest Restoration project, on behalf of the Alliance for the Wild Rockies and Native Ecosystems Council (collectively, “Alliance”). The Responsible Official is Payette National Forest Supervisor Linda Jackson. The Cold July Forest Restoration project is planned for the New Meadows Ranger District of the Payette National Forest (PNF).

The 30,000 acre project area is approximately 5 miles west of New Meadows, Idaho in Adams County.

NOTICE IS HEREBY GIVEN that Alliance objects pursuant to 36 CFR §218 to the Responsible Official’s adoption of the proposed action.

The Selected Alternative would involve a variety of management activities, summarized at Table ROD-1 authorizes 5182 acres Commercial logging and 3.4 miles of new road construction.

Alliance is objecting to this project on the grounds that implementation of the Selected Alternative would not be fully in accordance with the laws governing management of the national forests, and will result in additional degradation in already degraded watersheds and mountain slopes, further upsetting the wildlife habitat, ecosystem and human communities. We incorporate our earlier comments and objection. Our objections are detailed below.

Objection Statement.

The Draft ROD is in violation of NEPA.

CEQ regulations state that the agency shall involve environmental agencies, applicants and the public “to the extent practicable.” Public comments are solicited. The Cold July project violated NEPA because Alliance was not notified of an opportunity to comment on the Cold July Project. We received no scoping notice or notice of a draft EA even though we have a long history of being interested in the management of the Payette National Forest.

We did not comment on the Cold July Forest Restoration Project because we were never notified on an opportunity to comment in violation of NEPA.

The Forest Service did not respond because we did not comment.

Remedy: Withdraw the draft Decision Notice and reopen the public comment period on the draft EA and notify the Alliance of the opportunity to comment.

OBJECTION STATEMENT: The Selected Action is not based upon completion of the Wildlife Conservation Strategy (WCS) Forest Plan Amendment process.

Alliance did not submit any comments on this issue because we were not notified of an opportunity to comment.

The Revised Forest Plan (RFP) and draft Wildlife Conservation Strategy (WCS) were prepared in response to litigation. The court in *ISC v. Madrid* stated that the Forest Service must consider the limited amount of old-growth habitat on the Payette National Forest, and institute a program of population trend monitoring of key wildlife species. We note that nothing in the draft Wildlife Conservation Strategy, the RFP, or this project DEIS provides a specific response to Judge Winmill's order.

The Payette N.F. withdrew the draft WCS which they had prepared in response to direction in the 2003 Forest Plan in WIOB03 that called for development of a strategy to prioritize wildlife habitat maintenance and restoration (USDA Forest Service 2003, p. III-26). The DEIS for Forest Plan Amendments Proposed to Facilitate Implementation of the 2011 Plan-Scale Wildlife Conservation Strategy, Phase 1:

Forested Biological Community” (also known as the DEIS for the WCS) provided the format for summarizing the results of the WCS analysis and proposed Forest Plan amendments to integrate the recommendations of the WCS.

The Ninth Circuit order states on page 22: “The Forest Service’s decision to adopt a new definition of “old forest habitat” for the Project area is, accordingly, arbitrary and capricious.” Because the Payette N.F. did not complete the WCS the Payette National Forest and the Cold July Project is in violation of the Ninth Circuit’s order in *ISC v. Madrid*/

REMEDY: Complete the WCS NEPA and NFMA processes, including responding to objections/appeals on the WCS ROD, and then prepare an EIS on the Cold July Project.

OBJECTION STATEMENT: The EA was based upon grossly incomplete data, and it is not clear how the FEIS remedied those deficiencies, in violation of NEPA.

A reading of the EA and Draft Decision Notice (DN) reveals several other ways its issuance is premature. These include:

- Lack of on-the-ground surveys for vegetative conditions in many proposed treatment areas
- Lack of field surveys of riparian areas

- Lack of field surveys of soil conditions
- Failure to analyze the 2013 Geomorphic Roads Analysis and Inventory Package (GRAIP) survey results within the DEIS
- Lack of field surveys of dead trees and down wood
- Incomplete surveys to determine fish-bearing streams
- Incomplete determination of which roads would be haul routes under action alternatives
- Incomplete indicators for determining effects of proposed vegetation treatments inside RCAs
- Lack of field surveys for landslide prone areas in proposed treatment units and proposed new road locations
- Deficiencies of inventory of unauthorized roads and trails, and their restoration needs
- The need to consider of the imminent revision of the threatened North Idaho Ground Squirrel Recovery Plan

Given the above noted deficiencies in the EA, the public cannot be adequately informed for full participation in the NEPA process before the PNF prepares a Supplemental Draft EIS for public comment.

REMEDY: Prepare an EIS on the Cold July Project when adequate data is available, and give tho the public to comment at the appropriate point of the NEPA process.

OBJECTION STATEMENT: The FEIS violates NFMA's diversity provisions in regards to old growth, Management Indicator Species (MIS), Sensitive species, Threatened species, Endangered species, and those "Warranted" for listing under the ESA (Candidate species). The FEIS's analyses do not insure that viable populations of terrestrial wildlife are being maintained, despite admitted adverse impacts to many species.

This would not be an issue at all, if the PNF were to properly complete its WCS Forest Plan amendment process prior to proposing more actions, such as Lost Creek-Boulder Creek, that impact wildlife. So our DEIS comments are still germane:

“The WCS includes several key terms, including source habitat, habitat family, and focal species. Definitions for terms used in this analysis can be found in the “Glossary” section of the DEIS.” (260) The definition of the terms “habitat family” and “focal species” do not appear anywhere in the project DEIS, despite the fact that much of the wildlife analysis implements those terms. Since different focal species are used to represent various habitat families, it appears that focal species is a management indicator species (MIS) for those habitat families.

The EA does not disclose the amount and distribution of source habitat needed to insure population viability of wildlife. The analyses for focal species by habitat families do not provide this information. The DEIS does not explain how source habitat is modeled for each of the various species of wildlife it analyzes. And source habitat is basically only described in terms of acres, not spatially.

The EA does not include any “Measurements” for improved MIS wildlife habitat, despite Objective 4. (DEIS at 12, 13.)

“Restoring NIDGS habitat in Family 12 sites is a goal in the Recovery Plan for the Northern Idaho Ground Squirrel (USDI FWS 2003).” (296) The DEIS does not provide a definitive pathway for achieving that goal for the project area.

Why are the new skid trails and roads through or alongside occupied North Idaho ground squirrel habitat not considered a “taking” under the Endangered Species Act? It appears that livestock grazing in North Idaho ground squirrel habitat is likely also a “taking.”

The EA’s wildlife analyses fail to disclose that impacts of noxious weed infestations include reduced forage for North Idaho ground squirrel habitat and other wildlife species.

Given the effects of the project, the DEIS’s determination that the project would “not likely adversely affect” the North Idaho ground squirrel is illogical.

“The project area contains no Forest Plan MIS transects for white headed ...woodpeckers” (255). Since a major objective of the project is to “improve” such habitat, we wonder how a species that the Forest Service does not survey for in the project area, and for which there are very

few observed individuals, can be utilized as an MIS by the project analyses.

Wildlife Guideline WIGU05 requires that “Habitat should be determined for MIS or Sensitive wildlife species within or near the Project Area. Surveys to determine presence should be conducted for those species with suitable habitat.” Since the term “focal species” doesn’t occur in the forest plan, does the PNF interpret WIGU05 to include the DEIS’s focal species?

Forest plan Standards WIST02, WIST03, WIST04, among others, imply that the Forest Service will be thoroughly surveying for species’ presence in the project area. Guideline WIGU12 contains a similar implication for the presence of big game calving/fawning areas. Do we interpret those forest plan elements correctly?

If there are no old-forest habitat conditions within the project area, it is likely the project area does not provide habitat conditions that assure viability of many wildlife species. The PNF did not monitor population trends of old-growth MIS under the original forest plan, and still has insufficient monitoring data to assure that viable populations are being sustained. The forest plan does not disclose the amount, distribution, and quality of habitat needed to assure viability, and since old growth is deficient in the project area, the forest habitat that soonest will mature into old growth cannot be spared. The DEIS does not cite the results of monitoring or scientific studies that validate its

assumptions that restoration treatments would promote conditions that would help wildlife that prefer old-forest habitat.

Since there may be no habitat in the project area that meets the criteria of “old forest” and there have been no transects for white-headed and pileated woodpeckers, how can the analyses for these MIS demonstrate anything about insuring viable populations?

The EA does not cite the results of any post-project monitoring that verifies habitat improvement—and therefore population increase—assumptions.

Dead trees are crucial for every living thing in this forest ecosystem. The balance of soil moisture, the biological “engine” made up by soil microbes and invertebrates, all the plants that use the moisture and nutrients made available by soil microbes and invertebrates, every species of wildlife all the way up the food chain—every living thing.

The EA fails to disclose the best scientific information available that supports its assumptions concerning the quantity and quality of habitat necessary for sustaining the MIS and TES wildlife species. Viability for the Sensitive flammulated owl, white-headed woodpecker, black-backed woodpecker, American three-toed woodpecker, boreal owl, fisher, great gray owl, northern goshawk, pileated woodpecker, Canada lynx, mountain quail, wolverine, gray

wolf, Rocky Mountain bighorn sheep, Rocky Mountain elk, spotted bat, Townsend's big-eared bat, Northern Idaho ground squirrel, bald eagle, and Columbia spotted frog are not assured.

Mills, 1994, states that certain "population dynamics" must be considered in making determinations about species viability: "Ecological theory, supported by laboratory experiments and field observations, has established several factors as critical to the consideration of long-term population persistence. Leading among these factors are three: the growth rate of the population, the size of the population, and the connectivity of the population with surrounding populations of the same species." The DEIS does not utilize population dynamics in its analyses for wildlife.

The EA does not propose to manage consistent with the best science to protect alternate nest stands, post-fledging areas, and home ranges for the northern goshawk.

The EA does not demonstrate consistency with applicable Lynx Conservation Assessment and Strategy (LCAS) Standards and Guidelines. The DEIS fails to provide adequate maps of LAUs and habitat components along with areas of human activity as the LCAS requires, making it impossible for the public and decision maker to understand the impacts of motorized travel, as well as to understand impacts on habitat and connectivity of habitat. The DEIS

lacks a genuine analysis of the full range of cumulative impacts of other activities, including the cumulative effects of livestock grazing and motorized recreation in the project area.

We also question the adequacy of habitat standards and other direction set by the LCAS itself. The Forest Service would be hard-pressed to find many Lynx Analysis Unit in the Northern Rockies—heavily logged or otherwise—that fall below LCAS habitat percentages. Management direction must go beyond validating the management status quo—the very situation that led to the listing of the lynx under the ESA.

The Northern Rockies Lynx Management Direction (NRLMD) identifies the project area as a linkage zone. The NRLMD may also identify the project area as “secondary” habitat for which Terms and Conditions of the NRLMD Biological Opinion apply. The PNF also must manage consistently with the Amended Lynx Conservation Agreement between the Forest Service and the U.S. Fish & Wildlife Service.

The EA is not following the best available science for lynx. Squires et al. (2010) with additional research identified that older, multi-storied forests are essential as winter lynx habitat, and thus essential for the viability of lynx. The reduction of any of this key winter habitat may cause a risk

to lynx viability, since lynx are already at a threshold level of survival in regards to winter hare populations; even minor reductions may result in winter starvations for lynx (Id.). It is currently recognized that there is a threshold of forest thinning and logging below which lynx may not persist (Squires et al. 2010; Squires 2010). The DEIS does not address the connection between the historic loss of lynx winter habitat and the population decline of lynx in the Northern Rockies. The proposed management of winter hare habitat will not ensure viability of the lynx.

Lynx winter habitat is clearly limited in the LAUs that will be impacted by this project. The Forest Service believes that because no lynx have been found in the project area (even though no surveys for lynx were conducted because of “inability to access during winter” (285) that it is somehow justifies reductions of lynx winter habitat.

It is clear, then, that the FS must do more than follow its Forest Plans to protect lynx. Nonetheless, and in spite of the inadequate analysis population viability following adverse modification of habitat perpetuated by the Project, the North Butte Salvage Project BA concludes that the implementation of the proposed action would result in a determination of “may affect but not likely to adversely affect.”

...The EA fails to provide adequate maps of LAUs and habitat components along with areas of human activity as the LCAS requires, making it impossible for the public and

decision maker to understand the impacts of motorized travel, as well as to understand impacts on habitat and connectivity of habitat. The BA lacks a genuine analysis of the full range of cumulative impacts of other activities. The EA and BA also fail to disclose the cumulative effects of livestock grazing on the grazing allotments in the project area.

The Ninth Circuit Court of Appeals ruled that the Forest Service “must both describe the quantity and quality of habitat that is necessary to sustain the viability of the species in question and explain its methodology for measuring this habitat.” (*Lands Council v. McNair*). Assuring viability of most wildlife species is forestwide issue. The cumulative effects of carrying out multiple projects simultaneously across a national forest makes it imperative that population viability be assessed at least at the forestwide scale (Marcot and Murphy, 1992; also see Ruggiero et al., 1994a). The PNF Forest Plan Standards are not based upon scientific research regarding the forestwide amount and distribution of habitat needed to insure viability of old-growth associated wildlife.

Traill et al. 2010 and Reed et al. 2003 are published, peer-reviewed scientific articles addressing determination of a “minimum viable population” and explain that minimum viable population has been drastically underestimated in past. The Forest Service has not identified the best available science that

has provided scientifically sound, quantitative minimum viable population determinations for wildlife on the PNF.

The Committee of Scientists (1999) state:

Habitat alone cannot be used to predict wildlife populations...The presence of suitable habitat does not ensure that any particular species will be present or will reproduce. Therefore, populations of species must also be assessed and continually monitored.

On the subject of conservation strategies, the Committee of Scientists (1999) state:

To ensure the development of scientifically credible conservation strategies, the Committee recommends a process that includes (1) scientific involvement in the selection of focal species, in the development of measures of species viability and ecological integrity, and in the definition of key elements of conservation strategies; (2) independent scientific review of proposed conservation strategies before plans are published; (3) scientific involvement in designing monitoring protocols and adaptive management; and (4) a national scientific committee to advise the Chief of the Forest Service on scientific issues in assessment and planning.

The Committee of Scientists (1999) emphasized the importance of inventories. The regulations required that in providing for diversity of plant and animal communities, “inventories shall include quantitative data making possible the evaluation of diversity in terms of its prior and present condition.” (36 C.F.R.

Sec 219.26 (1984)) The Committee of Scientists (1999) explained, “No plan is better than the resource inventory data that support it. Each forest plan should be based on sound, detailed inventories of soils, vegetation, water resources, wildlife, and the other resources to be managed.”

REMEDY:

- Base a Draft EIS upon a scientifically peer-reviewed minimum amount of old growth on the Forest, which includes a buffer amount above what is considered the minimum to insure viable populations of old-growth associated species, so that natural processes that result in loss of old growth do not result in threats to species’ viability.
- Base a Draft EIS upon scientifically peer-reviewed Standards for distribution of old growth.
- Base a Draft EIS upon scientifically peer-reviewed minimum size of blocks of effective (meeting all criteria) old growth, below which existing block sizes do not contribute to the forestwide minimum Standard or distribution Standard.
- Prepare an EIS that includes scientifically peer-reviewed conservation strategies for attaining those amounts and distribution of habitats.
- To ensure the development of scientifically credible conservation strategies, prepare a DEIS that follow the process recommended by the Committee of Scientists, 1999 in the above paragraph.
- Delete treatments in project units that adversely impact the MIS and TES species in a short or medium timeframe.

- Conduct updated scientifically sound survey for the Northern Rockies fisher, Northern goshawk, wolverine, and Canada lynx for this project.
- Require that Project Monitoring includes old-growth habitat monitoring which creates an internet-based map inventory with linked stand data, updated at annually with all changes fully explained, so the public can make informed judgments as to the accuracy of the inventory.
- Arrange for an independent scientific peer-review of the PNF's old-growth inventory prior to using its results as a valid estimate of old growth on the Forest.
- Provide an analysis that determines and discloses the quantity and quality of habitat necessary to insure viable populations of MIS TES wildlife species.

Submitted sincerely for Objectors,

/s/

Michael Garrity, Lead Objector
Alliance for the Wild Rockies
Council
P.O. Box 505
Helena, Montana 59624
406-459-5936

Sara Johnson
Native Ecosystems

P.O. Box 125
Willow Creek, MT 59760
406-579-3286