

27 June 2021

Cheryl F. Probert  
Forest Supervisor  
Nez Perce-Clearwater National Forests  
Kamiah, ID

Dear Ms. Probert:

Thank you for the opportunity to comment on the Dead Laundry project . The project would be implemented on public lands managed by the Nez-Perce Clearwater National Forests (Forests), and these comments are intended to meet the 30-day from newspaper notice deadline.. I am commenting as a private citizen and not on behalf of any group or organization.

Kenney General Comments:

1. It is clear that much Forests staff planning effort has been expended for the proposed Dead Laundry project, but it also seems clear that the only objectives pursued by Forests leadership are maximized timber harvest, questionable fuels treatments, and reactivation of previously-ignored and moribund road prisms. The Forests' reasoning that it is just following orders (i.e. the 34-year old, outmoded, and soon-to-be-superseded Forest Plan) does not explain why project alternatives that would proactively advance Forests-acknowledged and developed watershed protection and restoration objectives (while still substantially addressing E1 guidance) have not also been proposed.

The NPCNF have long developed and implemented comprehensive projects that address all aspects of National Forest management, so it is a puzzle why the Forests insists here that only the proposed alternative would meet Forest Plan Goals, Objectives, etc. The Forests should withdraw the draft EA/FONSI and develop comprehensive alternatives (in an EA or EIS, as appropriate) that address all of the resource protection and enhancement responsibilities that the agency is obligated to consider in its management of public lands.

2. The draft EA/FONSI presents the proposed fuel treatments as effective in reducing the potential for private inholdings to be damaged by wildfire. However, 1) the effectiveness of fuel treatments declines (sometimes to essentially zero) under common fire-weather conditions, and 2) the proposed landscape burns are from about 1.5 to nearly 5 miles distant from the inholdings proposed for protection. The Forests should be required to present (and, indeed, should be pleased to disclose) some sort of probability-based and otherwise data-driven analysis to show that the proposed treatments would be cost-effective in their own right (i.e., not subsidized by timber units) in protecting private property. In particular, please provide local and vegetation type-relevant data and information that the proposed treatments would be effective in stopping the spread of wildfire to the inholdings under a range of likely wildfire conditions, and not just that fuel loading-based modeling shows that the activities may reduce fire intensity/severity around those inholdings, if wildfire is present.

3. Please develop an alternative which optimizes timber harvest value while minimizing road work. As a part of the alternative analysis, please discuss the cost of road work activities versus stumpage value for individual timber harvest units, particularly units which are relatively distant from roads which are currently passable by logging equipment and haul trucks. These data no doubt already exist and would allow the Forests to reduce biological, hydrological, and other adverse impacts of road work, as well as facilitating economic efficiency. I realize that the Forests have already rejected similar alternatives, but the stiff insistence that implementation of the harvest units and road activities proposed is the only way to follow the 34-year-old Forest Plan is not a becoming look for Forests leadership.

### Kenney Specific Comments:

1. The proposed project area includes substantial stream mileage of Critical Habitat for bull trout and is also recommended for substantial road mileage reduction (primarily to improve aquatic habitat) in the BHROWS Assessment (Clearwater National Forest 1999). In addition, the Forests has a “proactive conservation mandate” under Section 7(a)(1). of the Endangered Species Act (ESA) to improve ESA-listed species potential for survival and recovery. While the Forests claims that certain vaguely described road-related activities and highly speculative fuel reduction scenarios would tend to improve or protect aquatic habitat, these are activities that would be conducted whether bull trout CH is present or not. There are many proactive aquatic restoration measures, mostly associated with existing system, non-system, and legacy roads, that could be implemented by the Forests at little or no expense. The Forests should either add an aquatic restoration alternative to the project analysis or re-scope the project and do a more-comprehensive analysis of potential activities in the project area in an EIS.
2. To achieve Forest Plan compliance, please provide a site-specific analysis (including both the likely effects and efficacy) of the proposed fuel-reduction activities within RHCAs (both hand thinning and landscape burn). The analyses for RHCA fuel treatments should justify and comply with (in particular, regarding minimization of effects) INFISH Standard FM-1. This discussion should include the potential for drying/reduction of humidity of RHCA vegetation/soil/microclimate as a result of the proposed thinning and pruning, and the extent to which this potential adverse effect on RHCA condition reduces the intended effects of the activity on the private inholdings. The Forests should also fully describe maintenance of fuel reduction areas, both within and outside of RHCAs, beyond the initial treatments, and disclose the temporal extent and schedule of follow-up of treatments.
3. The Forests is apparently proposing road construction within RHCAs, and so needs to demonstrate compliance with INFISH standard RF-2. Has the Forests surveyed all temporary and new road locations for presence of small streams, springs, and wetlands or are they relying on maps? What streams layer is the Forests using for determination of potential RHCAs and stream/wetland crossing sites?
4. The Forests does not fully disclose the locations and number of stream crossings with road work, the locations of other RHCA road activities, nor are the locations of replacement/reset stream culverts identified. All of the streams with crossings or RHCA encroachment proposed for activities are either Critical Habitat for bull trout, or are tributary to such stream segments. So, the location, intensity, and duration of effects on stream habitat quality (and direct effects to individual bull trout) from stream-adjacent activities are greatly relevant to project analysis but are glanced-over. It is not sufficient for either ESA Section 7 or NEPA analysis for the Forests to claim that long-term effects of road work are neutral or that unspecified BMPs will minimize either short or long-term effects of such activities. It is obvious that there will be short-term and at least site-specific long-term effects from the proposed activities that will have more than a negligible potential for harm to individual bull trout or bull trout habitat. The Forests should fully disclose proposed stream-relevant road work and specifically incorporate this information into a revised proposal that addresses stream habitat protection more-seriously.
5. Beyond proposing and vaguely describing potential “reconstruction” activities, the Forests does not disclose in the draft EA/FONSI or Transportation Resource Report that much of the proposed project road system is physically closed to vehicle passage by areas of erosion, drainage feature failure, development of wetlands and the presence of substantial trees and other vegetation. Reconstruction of system road would enable the use of some such road by motorized vehicles for the first time in decades. The Forests has tacitly demonstrated that the road system in the project area can be ignored for long periods while simultaneously insisting in the draft EA/FONSI that dozens of miles of project-affected road segment are vitally necessary for Forests management far into the dim future. The Forests should disclose to the public a realistic timeline for timber stand management road needs and re-assess the potential for hydrologic decommissioning of most of the project area road mileage. The ability for Forests staff and/or the motorized public to drive in perpetuity on every crease in the landscape does not address the real costs to other Forests objectives, and needs to be addressed in documentation of proposed activities (and inactivities).

6. The Forests shows in the Transportation Resource Report (but does not disclose in the draft EA/FONSI) that there would be about 12 fewer miles of Maintenance Level 1 road (i.e., closed and theoretically in storage) in the proposed action than currently; there would be 67 additional miles of Maintenance Level 2 road (open to high-clearance public use) in the proposed action. This is in addition to 14 mile of new permanent road constructed that would be put into storage following all of the project activities. The Forests needs to, for both ESA Section 7 and NEPA purposes, determine and/or disclose the current on-the-ground access condition of each road segment that would be affected by the proposed action, determine and/or disclose the current and post-project road segment surface type, drainage features (including ditches, waterbars, cross-drain culverts, and stream/seep culverts), and determine and/or disclose the current and post-project maintenance and vehicle access level/type (including whether ATV/OHV access would be allowed and how the Forests would block and enforce any prohibition on public motorized use of stored road segments). Without this information, the public and regulatory agencies should assume that road segments will be open to vehicle use for the foreseeable future with attendant likely effects on project area resources.

7. Similarly, please provide a description of the existing conditions of the road segments that would be modified or hauled upon such that the public can be assured that the road work proposed would be conducted in a manner that would have a minimal to positive influence on stream channel fish habitat and fish populations. In particular, which of the road segments proposed for reconstruction are currently fully vegetated and stable such that the proposed activities would tend to increase soil erosion and potential transmission to stream channels? Conversely, which of the project road segments are currently adversely affecting fine sediment loads in streams or routing deleterious peak flows such that proposed project activities would improve stream and fish habitat? For roads proposed for maintenance/reconditioning along which harvest would occur or on which harvested timber would be hauled and currently have a native surface, would stream crossings on these roads be rocked or other modifications applied to ensure that fine sediment transmission to stream channels is prevented during and following project activities? What monitoring has been performed that would buttress the claims of expected effects?

8. The purported primary purpose/need of the Dead Laundry project (or at least the first one listed) is protection of private inholdings from wildfire on public land. It is not clear to me what statutory responsibility the Forests has to expend Federal funding on this intended outcome, and the Forests should provide such justification in the Dead Laundry documentation. While a WUI has been declared by Clearwater County for the inholding area, the WUI decision was not one that was scoped or commented on by the full public to which the Forest Service is responsible. It was the County's decision to allow improvements on these properties, but did the County promise fire protection or require fire-safe property management? What fuel treatments have been or will be performed on private inholdings adjacent to the proposed Dead Laundry fuel treatments on public lands? If none or minimal, please include in the final proposed action a requirement that comparable and adequate private activities be completed or updated before further public funds are spent on Forests fuel treatments and impacts on public resources occur. Further, the Forests should develop and/or disclose to the public (and cite/link in the Dead Laundry documentation and every relevant NEPA-related document) a plan, timeline, and accomplishment report that describes the costs to the public of every proposed or implemented fuel reduction project which cites protection of private inholdings.

9. Thank you for the moment of mirth when I read in the draft EA/FONSI (on page 24) that "evidence" exists of prior timber harvest in the Dead Laundry project area. In fact, the Vegetation Resource Report documents nearly as much cumulative project-area timber harvest in the 1960s, '70s, and '80s as in the purportedly project-definitive wildfires of 100+ years ago, and these historic harvest and harvest-related route features clearly have a greater influence on project area conditions than does wildfire. Given that essentially all of the commercial harvest and non-commercial thinning activity proposed in the draft EA/FONSI would be conducted in the area of prior harvest activities, it is strange (to be charitable) for the Forests to blame the early 20<sup>th</sup> century fires for the current "homogeneous" vegetative conditions. The Forests should take a hard look at the information it already has on historical timber harvest, disclose this in the draft EA/FONSI, and adjust its fuel treatment discussion with logic that fits the project area history. It would also behoove the Forests to describe to the public in a primary NEPA document how 2,000+

acres of additional timber harvest would affect vegetative and fuel loading conditions.

10. It is mentioned in the draft EA/FONSI (but only in the context of use as temporary roads) that “legacy” routes absent from the official road system (and publicly-disclosed maps) exist in the project area. Are such “legacy routes” the same as non-system roads, some of which have been numbered and are listed in a table in the Transportation Resources Report? In fact, are there not dozens of miles of old roads and other linear features in the project area that the Forests does not count (and has not disclosed in project documentation) when determining road density and potential effects on resources? These linear features are clearly visible as LiDAR on my CalTopo mapping program and some are visible on Google Earth. The Forests should account for the presence and effects of all legacy roads as a baseline condition in calculations in the Transportation, Wildlife, Fisheries, and Water Resources reports, as well as in the Biological Assessment. The obliteration or other modification of some of these features should also be considered as potential soil, water, and fisheries restoration activities in new alternative development in a revised EA/EIS.

11. Activities for the project include non-commercial thinning and some landscape burns, but the primary vegetation-altering activity of the project would be regeneration harvest. In the draft EA/FONSI under “Forest Plan Direction” (pg. 5) and in the context of protection of inholdings, it is stated that “Commercial harvest and hazardous fuel treatments will greatly reduce fire behavior and intensity...” Am I to understand that the NPCNF is actually claiming clearcutting and similar regeneration harvest as a fuel-reduction activity? If so, I would request that the Forests be more up-front and descriptive of intensive harvest as a fuels reduction method in public disclosure documents.

12. Please state somewhere in the draft EA/FONSI that the timber and jobs associated with this project (\$152 million? Really?) would likely benefit Montana and Montanans, not Clearwater County residents. Also, the EA and Recreation Resource Report neglect/dismiss the potential effects of the regeneration harvest and landscape burns (along with that of other planned projects) on the desirability of the upper North Fork/Kelly Creek area for high-value angling and similar aesthetic experiences, lumping the visual results with those attainable to NPCNF frontcountry and private tree farm scenery.

13. The proposed duration of temporary roads on the landscape is inconsistently (or at least confusingly) described in the project documentation. In the draft EA/FONSI the potential Design Feature that would require obliteration of temporary roads within 3 years of project implementation (pg. 18) is not checked; i.e., it is deliberately rejected by the Forests. In the draft BA (pg. 14), the Forests pledges that temporary roads would be recontoured/obliterated within 3 years of project completion. Assuming that the draft BA is correct, how long would temporary roads exist, given that from the Forests’ perspective, “3 years after the date that the project is completed” likely includes substantial post harvest activities, such as seedling planting, weed control, and possibly pre-commercial thinning? Also, would any temporary road decommissioning be performed prior to project completion? If so, what criteria would affect this process? If temporary roads would be on the landscape beyond the timber purchaser’s on-site presence, is funding and staff time expected to be applied in temporary road obliteration? Will the Forests notify the public when this project completion date is achieved? What efforts/safeguards would the Forests employ to ensure that temporary roads are protected from ground disturbance, water routing, and motorized vehicle use over the potentially indefinite existence? Do the USFWS, IDFG, and other regulatory/stakeholder entities understand the likely extended presence of temporary roads?

14. Could the Forests please specify which specific Design Features and Mitigation Measures (including mandatory contract provisions, BMPs, and similar common practices) would apply to specific locations or to at least specific situations? Many of these features and measures listed and checked in the draft EA/FONSI rely on unreviewable future judgment or ambiguous wording, and there are many potential features or measures that aren’t checked (although they were apparently contemplated and aren’t obviously unreasonable). When a project specialist determines that unnamed features and measures minimize or eliminate effects, is the specialist using the draft Dead Laundry EA/FONSI list, or just some theoretical set of BMPs, etc. that could be employed at a specific location? Similarly, under the “Watershed and Fisheries Regulatory Framework” section of the draft EA/FONSI (pg. 53), the statement is made that “All Federal and State laws and regulations applicable to water quality would be applied to

the Dead Laundry project including ...BMPs” (my emphasis). How could all BMPs be applied if some are specifically excluded earlier in the document? Please develop a document (which could be referenced, rather than directly included, in this and other project’s documentation) that provides the specificity requested above and which can then be referenced by the public and other oversight/interested entities to monitor Forests compliance..

15. Similar to the previous comment, but specific to potential effects on native inland fish, to what extent would the “design elements” paraphrased from PACFISH/INFISH standards (pgs.15 & 16 in the draft EA/FONSI) be applied to activities in the Dead Laundry project? For example, what segments of reconstructed roads would be outsloped (in place of ditch construction/maintenance)? Which segments of project roads would be modified such that road drainage is routed away from potentially unstable stream channels, fills, and hillslopes? How and where would the Forests avoid disruption of natural hydrologic flow paths in road-related activities? This sort of specific information would seem to be particularly crucial in assessing potential effects on ESA Threatened bull trout and bull trout Critical Habitat.

16. The Water Resources Report (and, briefly, the draft EA/FONSI) discuss the potential for proposed project activities to increase streamflows and purport a lack of effect on water temperature. The Forests should review recent research from Coble et al. (2020), Segura et al. (2020), and Grondahl et al. (2019), in order to address the potential for long-term decreases in base streamflow from timber harvest. The Forests should also consider the current vegetated state of some road segments proposed for reconstruction and RHCA temporary road construction before concluding that the project activities would not affect stream shading. Both decreases in base streamflow and reduction in stream shading have the potential to affect stream temperature, and therefore bull trout Critical Habitat.

17. The draft BA for the project does not include subwatershed-scale Matrices of Pathways and Indicators that are or were recently a desirable or required component for bull trout effects analysis. The Forests should complete both the baseline and effects components of these analysis tools in order to properly conduct ESA Section 7 effects determination for bull trout individuals and habitat and to complete formal consultation with the USFWS.

18. I may be misunderstanding the intent, but the plain reading of Mitigation Measure FF-1 (in the draft EA/FONSI and other project documents) is that in-water work associated with the project should be conducted August 15 through September 15. This is exactly the wrong period (and continuing through the fall) for such activities, as it is the peak spawn timing for bull trout in North Fork Clearwater streams.

Thank you for considering these comments and please don’t hesitate to contact me via e-mail ([cuttquest10@gmail.com](mailto:cuttquest10@gmail.com)) or phone (208-553-2347) if you have any questions.

Sincerely,

/s/ *Daniel R. Kenney*

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