

August 25, 2023
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Pacific NW Regional Forester
Attn: Pacific NW National Scenic Trail
Comprehensive Plan Comments
1220 SW 3rd Avenue; Suite 1700
Portland, OR 97204

Submitted via portal:
<https://cara.fs2c.usda.gov/Public/CommentInput?project=52259>

RE: OBJECTION to Finding of No Significant Impact for Pacific NW National Scenic Trail Comprehensive Management Plan Environmental Assessment

The following objection is submitted on the Finding of No Significant Impact on the Pacific Northwest National Scenic Trail Comprehensive Plan Environmental Assessment (EA) of March 2023.

I appreciate the work that has gone into developing the Comprehensive Management Plan and Environmental Assessment for the Pacific Northwest National Scenic Trail. It is not my intent to undermine that effort but to work through our objections collaboratively and seek solutions that result in a healthy resilient forest, healthy secure habitat for wildlife, including imperiled Yaak grizzly bears, and shared space for human recreation.

I am disappointed that the USFS failed to consider any suggestions offered in our comment letter or consider any trail alternatives, as required under NEPA, that would route the trail out of secure core grizzly bear habitat, while offering beautiful scenic views for recreationists.

I incorporate by reference my comments submitted on behalf of the Yaak Valley Forest Council on April 17, 2023.

The PNT as proposed, unlike other long distance thru-hike trails, runs east and west versus north and south and spans a narrow range of latitudes, resulting in a shorter, more compressed season for thru-hiking. This season, roughly mid-June to mid-September, is congruent with high levels of grizzly bear activity within core habitat in the Recovery Zones.

Development of the PNT along the trail's current conditional northern route will further stress the small, relatively isolated grizzly population in the Cabinet-Yaak ecosystem at a time when the Yaak's grizzly population's resilience is low, and when grizzly recovery in the lower 48 can be achieved only by significantly increasing, not decreasing, protections for grizzlies in the region.

The U.S. Fish & Wildlife Service's 2021, *Grizzly Bear in the Lower-48 States Five-Year Status Review* concludes that the CYE population of grizzlies is the most vulnerable of the four populations in the lower 48, with a current resilience of "low," due to the very low population numbers, low genetic diversity, and low fecundity of females. The review further concludes grizzly bears are likely to become extinct in the foreseeable future throughout all of its range.¹

The USFS and USFWS have a duty to conserve ESA listed species, including the threatened grizzly bear, under Section 7 of the Endangered Species Act (ESA), which requires federal agencies to ensure that actions they authorize, fund, or carry out do not jeopardize the existence of any species listed under the ESA, or destroy or adversely modify designated critical habitat of any listed species. Altered road density within BMUs and the establishment of a high-use recreation trail, both degrading core habitat, violates this fiduciary responsibility.

We object to the Finding of No Significant Impact on the Environmental Assessment for the following reasons:

1. Concerns for Threatened Grizzly Bears

¹ U.S. Fish and Wildlife Service. *GRIZZLY BEAR IN THE LOWER-48 STATES (Ursus arctos horribilis) 5-Year Status Review: Summary and Evaluation*. Department of the Interior, 2021, legacy-assets.eenews.net/open_files/assets/2021/03/31/document_pm_02.pdf. Accessed 10 Nov. 2022.

In a recent ruling in the U.S. District Court of Montana, Center for Biological Diversity, et al. v U.S. Forest Service,² the United States District Court for the District of Montana found that the USFS failed to address recent female grizzly mortality in the Yaak grizzly population and the impacts of high use non-motorized trails on grizzly bears during the non-denning season, the very time the PNT will be experiencing high use.

Inadequacies of road closures, storage and decommissioning and user created roads—leading to closure violations and habitat degradation not allowed or anticipated under the Forest Plan/Access Amendments are already affecting secure core habitat availability for grizzly bears within the Cabinet-Yaak Ecosystem. This is due to USFS-Kootenai National Forests leadership’s failure to address the situation and insufficient commitment to monitoring, and also because violations are not remedied in a timely manner.

The PNT, as routed, bisects Cabinet-Yaak Grizzly Bear Recover Zone BMUs 14, 15, and 16. These BMUs are considered “Management Situation 1” grizzly bear habitat, which means these areas contain grizzly population centers (areas key to the survival of grizzly where seasonal or year-long grizzly activity, under natural, free-ranging conditions is common) and habitat components needed for the survival and recovery of the species or a segment of its population. Land management in grizzly bear habitat must “maintain and enhance habitat and minimize potential for grizzly-human conflicts, when land use values compete, the management decision must favor the grizzly.”³

The Interagency Grizzly Bear Guidelines published in 1986 state the following:

“The FS will emphasize actions which contribute toward conservation and recovery of the bear within areas identified in the Grizzly Bear Recovery Plan. Objectives are to maintain and enhance habitat and to minimize potential for grizzly-human conflicts. The FS will manage habitats essential to bear recovery for multiple land use benefits, to the extent these land uses are compatible with the goal of grizzly recovery.”

“Land uses which cannot be made compatible with the goal of grizzly recovery, and are under FS control, will be redirected or discontinued.”⁴

² United States District Court for the District of Montana Missoula Division, Center for Biological Diversity, et al., v. U.S. Forest Service. 17 August 2023.

³ Ibid, p 48.

⁴ *Interagency Grizzly Bear Guidelines*. 1986, npshistory.com/publications/wildlife/interagency-grizzly-bear-guidelines.pdf. p2.

The development of the Pacific Northwest National Scenic Trail violates this USFS fiduciary duty to grizzly bear recovery.

The Pacific Northwest National Scenic Trail, as proposed, runs through high-elevation, prime grizzly bear habitat in the Yaak region in NW Montana that formerly provided secure habitat within the Cabinet/Yaak Grizzly Bear Recovery Zone. Clearly there is the potential for grizzly bear displacement and/or human conflict along the proposed northern trail route.

Grizzly bears in the Yaak have been found to meet criteria for up-listing under the ESA to endangered status.⁵ The U.S. District Court of Montana ruling in *Center for Biological Diversity, et al. v U.S. Forest Service*,⁶ found that the USFS must address recent female grizzly mortality in the Yaak grizzly population in project planning. A Finding of No Significant Impact to threatened/endangered Yaak bears or critical core grizzly habitat they depend upon in the federal designated Yaak Grizzly Bear Recovery Zone is without merit.

Unlike grizzly bears in larger ecosystems like the Greater Yellowstone Ecosystem or the Northern Continental Divide Ecosystem, grizzly bears displaced from secure core habitat in the Cabinet-Yaak Ecosystem are displaced into lower value habitat. Displacement of grizzlies by hikers will affect both spatial and temporal utilization of critical habitat during prime foraging summer months. This problem could be easily mitigated by rerouting the proposed trail to an alternate Southern Route that avoids core grizzly bear habitat within the Cabinet-Yaak Ecosystem.⁷ In our comment on the Comprehensive Management Plan, we requested that any NEPA document prepared for the Comprehensive Management Plan consider in detail the Southern Route as a reasonable alternative. The Environmental Assessment failed to address the Southern Route, or any alternate route for that matter.

There is a preponderance of in-depth and current science--the best available--analyzing the existing route and alternates. The USFS is abdicating its responsibility to utilize its authority to explore these alternatives.

⁵ Kendall, Katherine C., et al. "Density, distribution, and genetic structure of grizzly bears in the Cabinet-Yaak Ecosystem." *The Journal of Wildlife Management*, vol. 80, no. 2, 2015, pp. 314-331.

⁶ United States District Court for the District of Montana Missoula Division, *Center for Biological Diversity, et al., v. U.S. Forest Service*. 17 August 2023.

⁷ "Proposed Southern Route Trail Description." *Yaak Valley Forest Council | Protect Restore Connect*, yaakvalley.org/download/proposed-southern-route-trail-description/.

Remedy:

No trail through the Yaak Grizzly Bear Recovery Zone, explore routing the trail outside of all secure core grizzly habitat.

2. Service Must Engage in Formal Endangered Species Act Section 7 Consultation

The USFS failed to consult with the USFWS on endangered species, erroneously claiming no disturbance to listed species. The Wildlife Biological Evaluation for the Pacific Northwest National Scenic Trail Draft Comprehensive Plan states:

The Endangered Species Act of 1973 requires federal agencies to conserve federally-listed species. It also requires any action authorized by a federal agency to not be likely to jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of critical habitat for these species. Section 7 of the Endangered Species Act, as amended, requires the responsible federal agency to consult with the USDI Fish and Wildlife Service for any action that may affect a threatened or endangered species under their jurisdiction.

The proposed action is consistent with the Endangered Species Act. It is not expected to result in disturbance of biological functions, injury, or mortality of individuals of any federally-listed species, and therefore would not jeopardize any federally-listed species. It is also not expected to result in alteration, degradation, or elimination of any critical habitat, and therefore would not result in destruction or adverse modification of critical habitats of any federally-listed species. (emphasis added)

We object to the premise that there will be no disturbance of biological functions to grizzly bears with the intrusion of a high use hiking trail into prime foraging habitat during hyperphagia.

The PNT route as proposed traverses 4 of the 6 designated grizzly bear recovery zones. Section 7 of the ESA requires each federal agency, in consultation with FWS, to ensure that any proposed action is not likely to jeopardize the continued existence of a threatened or endangered species or result in the destruction or adverse modification of its critical habitat.

An EIS is required to assess how the presence of the trail may affect bear behavior and how the seasonal presence of pedestrians on the trail will affect the “biological functions” of foraging behavior and potentially impact reproductive fitness, not only in the Yaak population, but across all Grizzly Bear Recovery Zones transected by the proposed route.

Four grizzly bears were lost to the Yaak population in 2022, three of them female, two of breeding age. Three of the bears killed in the Yaak were due to encounters with humans (W. Kasworm, personal communication, April 11, 2023). Known grizzly bear mortality in the Yaak population is likely underestimated due to unreported deaths of uncollared bears.⁸ The demographic recovery targets from the grizzly bear recovery plan (USFW 1993) criteria are for 6 females with cubs over a 6-year average, with a distribution of females with young in 18 of 22 BMUs.⁹ The most recent documented levels over a six year average were at 3.3 for unduplicated females with cubs with a distribution of females with young in 14 of 22 BMUs.¹⁰

Currently due to low human disturbance the seasonal habitat of the northern Yaak BMUs support the highest occupancy of females with young in the Yaak GRBZ. Huckleberries, a critical high energy summer and fall food are common in high elevation areas along the proposed northern route.¹¹ Independent modeling¹² shows that if the Yaak loses one adult female grizzly every other year, the population will be extinct in fewer than 20 years. The Yaak population lost three female grizzlies in 2022. Increasing human visitation into the precise small patches of habitat within the Yaak GBRZ most utilized by grizzly bear sows with cubs from mid-June to mid-September, habitat federally designated for grizzly bear recovery, makes no sense under any circumstances. The Southern Route mitigates this conflict.

⁸ Kasworm, Wayne F., et al. *Cabinet-Yaak Grizzly Bear Recovery Area 2021 Research and Monitoring Progress Report*. United States Fish and Wildlife Service, 2022.

⁹ U.S Fish and Wildlife Service. 1993 Grizzly bear recovery plan. Missoula, MT 188 pp.

¹⁰ Kasworm, Wayne F., et al. *Cabinet-Yaak Grizzly Bear Recovery Area 2021 Research and Monitoring Progress Report*. United States Fish and Wildlife Service, 2022.

¹¹ Craighead, Dr. Frank Lance, and Wayne P. McCrory. *POTENTIAL IMPACTS OF THE PROPOSED PACIFIC NORTHWEST NATIONAL SCENIC TRAIL ROUTE ON THREATENED GRIZZLY BEARS AND THEIR RECOVERY IN THE YAAK WATERSHED AREA, NW MONTANA*. 2018. yaakvalley.org/download/craighead-mccrory-final-yaak-report/?wpdmdl=1261&refresh=642f3d5187a221680817489; Kasworm, W.F., T.G. Radandt, J.E. Teisberg, A. Welander, M. Proctor, and C. Servheen. 2015. Cabinet-Yaak grizzly bear recovery area 2014 research and monitoring progress report. U.S. Fish and Wildlife Service, Missoula, Montana. 96 pp.

¹² Ibid

The EA presents a skewed and inaccurate “assessment” by failing to acknowledge and disclose findings of the Congressionally commissioned *Joint Study by the Forest Service and National Park Service*¹³ authorized in 1977, which concluded the current route, Alternative 1 in the proposed action, was chosen without consideration for grizzly bear recovery. The EA also failed to acknowledge the 2018 analysis by Dr. Frank Lance Craighead and Wayne McCrory,¹⁴ which supported the findings of the original Joint Study recommending against a trail through the North Yaak Valley, and Dr. David J. Mattson’s 2019 study, *Effects of Pedestrians on Grizzly Bears: An Evaluation of the Effects of Hikers, Hunters, Photographers, Campers and Watchers*.¹⁵

Remedy:

Prepare an EIS and formally consult with the U.S. Fish and Wildlife Service to determine the trail’s impact on ESA listed species.

3. Failure to Assess any Route Alternatives

The Environmental Assessment and subsequent FONSI violate NEPA, in that no alternatives to the Proposed Action other than a No Action alternative were proposed or assessed.

Under NEPA(42 U.S.C. 4332.) all agencies of the Federal Government shall:

42 U.S.C. 4332.

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

- (i) the environmental impact of the proposed action,
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,
- (iii) **alternatives to the proposed action, (Emphasis added)**

¹³ *A Report Based on a Joint Study by the Forest Service and National Park Service*. National Park Service; United States Forest Service, 1980.

¹⁴ Craighead, Dr. Frank Lance, and Wayne P. McCrory. *POTENTIAL IMPACTS OF THE PROPOSED PACIFIC NORTHWEST NATIONAL SCENIC TRAIL ROUTE ON THREATENED GRIZZLY BEARS AND THEIR RECOVERY IN THE YAAK WATERSHED AREA, NW MONTANA*. 2018. yaakvalley.org/download/craighead-mccrory-final-yaak-report/?wpdmdl=1261&refresh=642f3d5187a221680817489.

¹⁵ Mattson, David J. *Effects of Pedestrians on Grizzly Bears: An Evaluation of the Effects of Hikers, Hunters, Photographers, Campers and Watchers*. The Grizzly Bear Recovery Project, 2019.

- (iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.¹⁶

NEPA sets procedural requirements for federal agencies to follow when contemplating actions that will have an impact on the environment. 42 U.S.C. § 4332. Among these requirements are that agencies must consider alternatives to the proposed action- including no action- and compare the environmental consequences of those alternatives against the proposed action. 42 U.S.C. § 1502.14¹⁷

The USFS, seemingly under the assumption that reroutes of the PNT could not be implemented under the current law, declined to consider any citizen-proposed route alternatives including the Southern Route proposed by the Yaak Valley Forest Council and supported by the 1980 Congressional recommendation and independent follow up studies.¹⁸ In our comment letter however, we offered case law contradicting this assumption. In *Muckleshoot Indian Tribe v. United States Forest Service*,¹⁹ the Ninth Circuit Court found that under 40 C.F.R. § 1502.14(c) “...agencies shall include reasonable alternatives not within the jurisdiction of the lead agency.”²⁰ In other words, an agency cannot dismiss an alternative simply because it would require an act of Congress to implement it. The USFS is and was obligated to consider reasonable alternatives including those that may require Congressional action. The ninth circuit also found in *Citizens for a Better Henderson v. Hodel*, “A viable but unexamined alternative renders the EA inadequate.”²¹

¹⁶ *National Environmental Policy Act Implementing Regulations 40 CFR Parts 1500-1508 (May 20, 2022)*. Council on Environmental Quality Executive Office of the President, ceq.doe.gov/docs/laws-regulations/NEPA-Implementing-Regulations-Desk-Reference-2022.pdf. Accessed 4 Apr. 2023.

¹⁷ United States District Court for the District of Montana Missoula Division, Center for Biological Diversity, et al., v. U.S. Forest Service. 17 August 2023. P 21.

¹⁸ Craighead, Dr. Frank Lance, and Wayne P. McCrory. *POTENTIAL IMPACTS OF THE PROPOSED PACIFIC NORTHWEST NATIONAL SCENIC TRAIL ROUTE ON THREATENED GRIZZLY BEARS AND THEIR RECOVERY IN THE YAAK WATERSHED AREA, NW MONTANA*. 2018. yaakvalley.org/download/craighead-mccrory-final-yaak-report/?wpdmdl=1261&refresh=642f3d5187a221680817489; Mattson, David J. *Effects of Pedestrians on Grizzly Bears: An Evaluation of the Effects of Hikers, Hunters, Photographers, Campers and Watchers*. The Grizzly Bear Recovery Project, 2019.

¹⁹ United States Court of Appeals, Ninth Circuit. *Muckleshoot Indian Tribe v. United States Forest Service*. 19 May 1999.

²⁰ United States Court of Appeals, Ninth Circuit. *Muckleshoot Indian Tribe v. United States Forest Service*. 19 May 1999.

²¹ *Citizens for a Better Henderson v. Hodel*, 768 F.2d 1051, 1057 (9th Cir. 1985).

The EA fails to assess any alternatives to the proposed action and in “Consideration of No Action” fails to do any assessment of the “No Action Alternative” simply stating, *“‘No action’ means that current public land management allocations, activities, and management direction found in the various management plans for areas through which the trail passes would continue, without any additional management guidance in the proposed comprehensive plan.”*²² This approach relies on existing plans without any evaluation of the validity of the existing plans. Some of the plans referenced are currently being litigated. The EA goes on to state, *“The No-Action Alternative includes analysis of ongoing management and activities on federal lands, which will serve as the baseline for the analysis of all alternatives. Current trends described in the Potentially Affected Environment sections would be anticipated to continue.”*²³ This “ongoing management,” references activities that may or may not be occurring or may or may not occur in the future and guidelines that may or may not be enforced on the ground. This EA is built on a presumed baseline that makes false or unsubstantiated claims of past, current, and ongoing management.

Remedy:

Explore alternate routes using Optimal Location Review criteria and meet the legal obligation for alternatives to the proposed action under NEPA.

4. Failure to Effectively Track Trail Use Metrics

The EA fails to establish a method for effectively capturing metrics of trail use. While the Draft Carrying Capacity Report identified a numeric range for trail users, it along with the CMP fails to identify any plan for implementing a methodology to track metrics to determine and/or limit trail use. Identification for this plan is required under 16 U.S.C. 1244 (e)(1) which states:

(e)(1) specific objectives and practices to be observed in the management of the trail, including the identification of all significant natural, historical, and cultural resources to be preserved (along with high potential historic sites and high potential route segments in the case of national historic trails), details of anticipated cooperative agreements to be

²²*Pacific Northwest National Scenic Trail Comprehensive Plan Environmental Assessment.* USDA, www.fs.usda.gov/project/?project=52259. Accessed 4 Apr. 2023. p.36

²³ *Pacific Northwest National Scenic Trail Comprehensive Plan Environmental Assessment.* USDA, www.fs.usda.gov/project/?project=52259. Accessed 4 Apr. 2023. p.36

*consummated with other entities, and an identified carrying capacity of the trail **and a plan for its implementation***;²⁴ (bold added)

The potentially high-volume thru-hiker Pacific Northwest Trail (PNT), traverses unlogged old growth forest that is home to numerous species of threatened and endangered wildlife. We use the term “potentially high-volume thru-hiker trail,” because the CMP/EA lacks any sort of enforceable methodology for how the trail’s carrying capacity and visitor use will be evaluated or enforced. The DRAFT Carrying Capacity Report states, “...*carrying capacity range for thru-hiking for the PNT is 552 to 1,748 thru-hikers per high use season (Mid-June through Mid-September).*”²⁵ This is a very broad range. The EA and the Draft Carrying Capacity Report make no reference or determination for how visitation will be accounted for, potentially limited, or how determined limits will be enforced once carrying capacity is reached.

Tracking visitation metrics is critical for grizzly bear secure core habitat area calculations. High intensity use trails receiving an average of 20 or more parties per week,²⁶ must be buffered by 500 meters, the same as for motorized routes,²⁷ effectively increasing road density within the BMU and decreasing secure core grizzly bear habitat. This would then affect and alter the allowable limits of local motorized access on established roads. The current PNT route, assuming it receives an average of 20 or more parties per week, would add 27 miles of high use trail, equivalent to 27 miles of new motorized road, and result in the need to close 27 miles of established road or high use trail elsewhere to retain adequate secure core grizzly habitat. However, over a third of this “National Scenic Trail” is routed on pre-existing high use motorized roads within the Yaak. Not so scenic.

The Pacific Crest Trail, which does not pass through multiple Grizzly Bear Recovery Zones offers insight into the difficulty and importance of tracking visitation.

As to how many people use this national trail each year, the PCT Association states:

²⁴ 16 U.S. code § 1244 - National scenic and national historic trails. (n.d.). LII / Legal Information Institute. <https://www.law.cornell.edu/uscode/text/16/1244>

²⁵ Valentine, Stephanie. *Pacific Northwest National Scenic Trail DRAFT Carrying Capacity Report*. Forest Service; U.S. Department of Agriculture, 2022, Accessed 15 Oct. 2022.

²⁶ Lyndaker, B.R. 2011. High intensity use trails. Idaho Panhandle National Forests.

²⁷ Craighead, Dr. Frank Lance, and Wayne P. McCrory. *POTENTIAL IMPACTS OF THE PROPOSED PACIFIC NORTHWEST NATIONAL SCENIC TRAIL ROUTE ON THREATENED GRIZZLY BEARS AND THEIR RECOVERY IN THE YAAK WATERSHED AREA, NW MONTANA*. 2018. yaakvalley.org/download/craighead-mccrory-final-yaak-report/?wpdmdl=1261&refresh=642f3d5187a221680817489.

*We'd love to know exactly how many people use the Pacific Crest Trail. Probably hundreds of thousands or more than a million people use the PCT each year—if we were to count every person who steps on to some section of the trail. We just don't know and there's no feasible way to count them all.*²⁸

The lack of an identified plan to monitor trail use was apparent during the June meeting of the PNT Advisory Council. When asked how will you monitor? USFS staff replied, “We are open to suggestion.”

We object to the lack of proactive and effective methodology for tracking visitation on the PNT.

Remedy:

Establish a system to track usage on sections of the trail that pass through Grizzly Bear Recovery Zones (GBRZs) (Northern Continental Divide, Cabinet-Yaak, Selkirk and North Cascades Ecosystems). High use trails, exceeding 20 parties per week, are classified as motorized routes in GBRZs and require a 500-meter buffer between the trail and secure core habitat. The trail corridor will affect secure core habitat for grizzly bears as delineated in the 1993 Grizzly Bear Recovery Plan.

Failure to Assess Cumulative Impacts

The PNT route proposed as **Alternative 1–Proposed Action** in the EA intersects land under the management jurisdiction of multiple agencies and private landowners. Along the proposed PNT route, multiple agency actions are being implemented or assessed for implementation that, along with the proposed trail, will have cumulative impacts on the environment. The Pacific Northwest National Scenic Trail Comprehensive Plan Environmental Assessment fails to address these significant and cumulative impacts or assess for comparison, the impacts of other proposed trail alternatives.

The PNT route designation does not exist in a vacuum. The trail route bisects four federally designated Grizzly Bear Recovery Zones (GBRZs) and will be one of multiple projects affecting the landscape. Of concern are the numerous logging projects degrading

²⁸ "PCT Visitor Use Statistics." *Pacific Crest Trail Association*, 16 Nov. 2022, www.pcta.org/our-work/trail-and-land-management/pct-visitor-use-statistics/. Accessed 13 Apr. 2023.

core habitat in the Cabinet-Yaak GBRZ and the cumulative impacts of these projects and the designation of the PNT route through the same landscape.

Four proposed logging projects in the Yaak Valley alone, the recently vacated Black Ram, the Knotty Pine, Pleasant Pheasant and the South Yaak Salvage and another nearly complete project, Buckhorn, will have detrimental impacts to core grizzly bear habitat. Impacts of these projects must be assessed cumulatively with effects of establishing a high use thru-hiker trail.

In *Fritiofson v. Alexander*, the United States Court of Appeals, Fifth Circuit found, *“NEPA regulations require an analysis, when making the NEPA threshold decision, to determine if it is reasonable to anticipate cumulatively significant impacts from the specific impacts of the proposed project when deciding the potential significance of a single proposed action, a broader analysis of cumulative impacts is required. The regulations clearly mandate consideration of the impacts of actions that are not yet proposals and from actions-past, present and future-regardless of what agency undertakes other such actions.”*²⁹

The USFS failed to conduct the broad analysis required to assess the cumulative impacts of the PNT and other projects under multiple jurisdictions along the proposed PNT route.

The National Environmental Policy Act, 42 U.S.C.S. § 4332(2)(C)³⁰, requires federal agencies to address the cumulative impacts of a project and consider adequate alternatives. 40 C.F.R. § 1508.7³¹ defines a cumulative impact as *“...the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency, federal or non-federal, or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.”*

In addition to the cumulative impacts associated with past, present and future logging projects, are concerns related to road density analysis and the impacts of road density and

²⁹ United States Court of Appeals, Fifth Circuit, *Fritiofson v. Alexander*, 772 F.2d 1225, 1985.

³⁰ "42 U.S. Code § 4332 - Cooperation of Agencies; Reports; Availability of Information; Recommendations; International and National Coordination of Efforts." LII / Legal Information Institute, www.law.cornell.edu/uscode/text/42/4332.

³¹ *GovInfo | U.S. Government Publishing Office*, www.govinfo.gov/content/pkg/CFR-2013-title40-vol34/pdf/CFR-2013-title40-vol34-sec1508-7.pdf.

road and trail fragmentation to secure core grizzly bear habitat. Habitat security is paramount to grizzly bear recovery. Fragmentation of habitat compromises population viability, reduces a species ability to respond to climate change, and ultimately may reduce biodiversity.³² Avoidance of human activities by wildlife is an important consideration in management decisions. Cumulative effects models for grizzly bears have shown bears avoid areas of human activity and show high levels of avoidance to roads and high use trails. This avoidance extends to high quality habitat adjacent to areas of high human activity. Grizzly bear avoidance of high quality habitat due to human disturbance forces bears into lower quality habitat.³³ Of particular concern is the reduction in female movement rates in areas where human activity is high.³⁴ The Yaak grizzly population is dependent on female bear immigration into the CYGBRZ for population viability.³⁵ Female mortality is particularly critical to population viability so that even small incremental increases in mortality risk or disturbance are a threat within occupied habitat.³⁶ This threat to Yaak grizzly bear security was not evaluated.

The interruption of movement by fragmentation is a major force underlying the recent extinction crisis.³⁷ Movement is an important process in population ecology,³⁸ chiefly allowing species to meet their ecological needs, but also helping them persist during dramatic ecological changes such as those brought on by human development and changing climates.³⁹ The Draft CMP and EA do not do a thorough job of considering

³² Proctor, Michael F., et al. "Population fragmentation and inter-ecosystem movements of grizzly bears in western Canada and the northern United States." *Wildlife Monographs*, vol. 180, no. 1, 2011, pp. 1-46.

³³ Kasworm, Wayne F., and Timothy L. Manley. "Road and Trail Influences on Grizzly Bears and Black Bears in Northwest Montana." *Vol. 8, A Selection of Papers from the Eighth International Conference on Bear Research and Management, Victoria, British Columbia, Canada, February 1989 (1990)*, pp. 79-84.

³⁴ Proctor, Michael F., et al. "Population fragmentation and inter-ecosystem movements of grizzly bears in western Canada and the northern United States." *Wildlife Monographs*, vol. 180, no. 1, 2011, pp. 1-46.

³⁵ Kasworm, Wayne F., and Et al. *CABINET-YAAK GRIZZLY BEAR RECOVERY AREA 2021 RESEARCH AND MONITORING PROGRESS REPORT*. UNITED STATES FISH AND WILDLIFE SERVICE, 2022.

³⁶ Mattson, D.J., and M.M. Reid. 1991. Conservation of the Yellowstone grizzly bear. *Conservation Biology* 5:364-372.; Mattson, D.J., and J.J. Craighead. 1994. The Yellowstone grizzly bear recovery program: uncertain information, uncertain policy. Pages 101-130 In: T.W. Clark, R.P. Reading, and A.L. Clarke, eds. *Endangered species recovery: finding the lessons, improving the process*. Island Press, Washington, D.C.

³⁷ Wilcox, B. A., and D. D. Murphy. 1985. Conservation strategy: the effects of fragmentation on extinction. *American Naturalist* 125:879-887.; Zavaleta, E., J. Pasari, J. Moore, D. Hernandez, K. B. Suttle, and C. C. Wilmers. 2009. Ecosystem responses to community disassembly. *Annals of the New York Academy of Sciences* 1162:331-333.

³⁸ Hanski I. A. and M. E. Gilpin, editors. 1997. *Metapopulation biology: ecology, genetics, and evolution*. Academic Press, San Diego, California, USA.; Clobert J., E. Danchin, A. A. Dhondt, and J. D. Nichols, editors. 2001. *Dispersal*. Oxford University Press, Oxford, United Kingdom.

³⁹ Nathan, R., W. M. Getz, E. Revilla, M. Holyoak, R. Kadmon, D. Saltz, and P. E. Smouse. 2008. A movement ecology paradigm for unifying organismal movement research. *Proceedings of the National Academy Sciences of the United States of America* 105:19052-19059.

climate change's effects on grizzlies and other species of concern, including but not limited to threatened, sensitive, and endangered species.

The ecological effects of roads on wildlife and habitat quality have been well documented as major contributors to ecosystem disruption and degradation.⁴⁰ Roads impact wildlife directly through vehicle collisions and indirectly through human access to grizzly habitat. The Yaak grizzly population suffered the loss of three female bears in 2022, only one from natural causes (W. Kasworm, personal communication, April 11, 2023). This is an enormous setback for the Yaak grizzly population.

Calculating road density makes determining use limits for the trail prior to implementation of the standards an imperative. Visitation to and use of the trail by local and thru hikers, which differs from carrying capacity, affects road density in each BMU in the Cabinet-Yaak Grizzly Bear Recovery Zone. Visitor capacity must be monitored and limited as it will alter established road use within core grizzly bear habitat and can have consequences for forest management. According to a review of forest plan amendments for access management within the Selkirk and Cabinet-Yaak grizzly bear recovery zones, a core area is defined as follows:

*“An area of secure habitat within a BMU that contains no motorized travel routes or **high use nonmotorized trails** during the non-denning season [non-denning season includes the dates 4/1-11/15 (SRZ) or 4/1-1/30 (CYRZ), inclusive] and is more than 0.3 miles (500 meters) from a drivable road. Core areas do not include any gated roads but may contain roads that are impassible[sic] due to vegetation or constructed barriers. Core areas strive to contain the full range of seasonal habitats that are available in the BMU.”⁴¹ (emphasis added)*

Currently, the Bear Habitat Units (BMUs) of the Kootenai National Forest have been designed with access management limitations to meet IGBC standards for “core security areas” for female grizzly bears.⁴² For non-motorized recreation trails, this includes consideration of the degree of human use where IGBC task force standards ensure that “high-intensity trails” are considered in maintaining core habitat in BMUs. Three designated BMU core areas, frequently used by female grizzly bears with cubs, BMUs

⁴⁰ "Analysis of Road Densities in Selected Grizzly Bear Management Units in the Northern Rockies." Recent Proceedings, proceedings.esri.com/library/userconf/proc96/TO450/PAP413/P413.HTM. Accessed 6 Apr. 2023.

⁴¹ US Department of Agriculture (USDA). 2011. Record of Decision. Forest plan amendments for access management within the Selkirk and Cabinet-Yaak grizzly bear recovery zones, p.10.

⁴² Interagency Grizzly Bear Committee (IGBC). 1998. Interagency Grizzly Bear Committee Taskforce Report on Grizzly Bear/Motorized Access Management, 1998 revision, p.6.

14, 15, and 16 are crossed in the Yaak GBRZ by the current PNT route.⁴³ According to the 1998 revised Taskforce Report on Grizzly Bear/Motorized Access Management,⁴⁴ no roads or trails that receive non-motorized high intensity use as defined in established cumulative effects definitions can be included in identified core areas.

The high use non-motorized PNT route as proposed decreases secure core habitat. To reiterate, these BMUs are considered “Management Situation 1” grizzly bear habitat, which means these areas contain grizzly population centers (areas key to the survival of grizzly where seasonal or year-long grizzly activity, under natural, free-ranging conditions is common) and habitat components needed for the survival and recovery of the species or a segment of its population. Land management in grizzly bear habitat must “maintain and enhance habitat and minimize potential for grizzly-human conflicts, when land use values compete, the management decision must favor the grizzly.”⁴⁵

So, the high intensity PNT that fragments prime core grizzly habitat in BMUs known to support female grizzlies with cubs loses its “core habitat” designation and protections due to human recreational infringement.

Additionally, the forest plan amendment states:

“Except as provided above for road stabilization projects, no reductions in core habitat without in-kind replacements would be proposed until all BMUs administered by the IPNF, KNF and LNF in the respective ecosystems are up to standard (table 25; which does not include the LeClerc BMU or the Idaho State Lands BMU in the Selkirk recovery zone).”

“Reductions of core area within individual BMUs shall not reduce the percent core area below the minimum standards for the affected BMU without compensating with in-kind replacement concurrently or prior to incurring the losses (see Part I.B.3.).”⁴⁶

⁴³ Craighead, Dr. Frank Lance, and Wayne P. McCrory. *POTENTIAL IMPACTS OF THE PROPOSED PACIFIC NORTHWEST NATIONAL SCENIC TRAIL ROUTE ON THREATENED GRIZZLY BEARS AND THEIR RECOVERY IN THE YAAK WATERSHED AREA, NW MONTANA*. 2018.

⁴⁴ Interagency Grizzly Bear Committee (IGBC). 1998. Interagency Grizzly Bear Committee Taskforce Report on Grizzly Bear/Motorized Access Management, 1998 revision, p.6.

⁴⁵ United States District Court for the District of Montana Missoula Division, Center for Biological Diversity, et al., v. U.S. Forest Service. 17 August 2023.

⁴⁶ "Land Management Plan 2015 Revision Kootenai National Forest." US Forest Service, USDA, 2015, www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3826663.pdf. p 149. Accessed 13 Apr. 2023.

Where will this new “core habitat” come from?

Core areas with no open or gated roads are strongly preferred by bears.⁴⁷ The effectiveness of road closures such as gates to block access and close a road in core grizzly habitat has been questioned.⁴⁸ In fact the Yaak Valley Forest Council travels the KNF to document the effectiveness of USFS Motor-vehicle (MV) road closures/barriers. Multiple roads were found to have ineffective barriers that can easily be bypassed, and at times no barriers were present at all in violation of IGBC standards. Additionally, multiple unmapped user-created roads have been documented increasing road density in core grizzly bear habitat.⁴⁹ The EA/Finding of No Significant Impact is built upon a foundation of illegitimate and incomplete data, therefore is destined to yield a flawed and incomplete product, one that gallops toward a predetermined desired political outcome while bypassing science and various statutes within a loose lattice of authorizing language.

Remedy:

Complete an EIS and take a “hard look” at cumulative impacts of the PNT and past, present and future projects on the ecosystem.

5. Failure to Complete an Economic Analysis

Despite The National Trails System Act⁵⁰ [16 U.S.C. 1244 Sec. 5(b)(9)] directing managing agencies to consider economic development of routes, there is no analysis of this directive in this Draft EA.

16 U.S.C. 1244 Sec. 5(b)(9) the relative uses of the lands involved, including: the number of anticipated visitor-days for the entire length of, as well as for segments of, such trail; the number of months which such trail, or segments thereof, will be open for recreation purposes; the economic and social benefits which might accrue from alternate land uses; and the estimated man-years of civilian

⁴⁷ Wakkinen, Wayne L., and Wayne F. Kasworm. "Grizzly Bear and Road Density Relationships in the Selkirk and Cabinet-Yaak Recovery Zones." <https://www.arlis.org/docs/vol1/B/613643015.pdf>, IDFG/USFWS, Apr. 1997, www.arlis.org/docs/vol1/B/613643015.pdf.

⁴⁸ Platt, T.M. 1992. Cabinet-Yaak grizzly bear ecosystem 1992 Forest Service road closure program compliance inventory. Dep. Environ. Studies, Univ. Of Mont. Missoula. 39pp.

⁴⁹ South, Anthony. *Black Ram Nov 2022 Road Barrier Report*. Yaak Valley Forest Council, 2022. Accessed 6 Apr. 2023.

⁵⁰ 16 U.S. Code § 1244 - National Scenic and National Historic Trails. www.law.cornell.edu/uscode/text/16/1244.

employment and expenditures expected for the purposes of maintenance, supervision, and regulation of such trail;

There is no economic analysis of the costs associated with trail development. The CMP again makes the erroneous assumption that the trail is established when much of the trail's route is on roads currently open to and experiencing high volume motorized use.

The subsection also directs the managing agency (USFS) to develop trail studies in consultation with interested interstate, State, and local governmental agencies, public and private organizations and to determine economic feasibility.

“Such studies shall be made in consultation with the heads of other Federal agencies administering lands through which such additional proposed trails would pass and in cooperation with interested interstate, State, and local governmental agencies, public and private organizations, and landowners and land users concerned. The feasibility of designating a trail shall be determined on the basis of an evaluation of whether or not it is physically possible to develop a trail along a route being studied, and whether the development of a trail would be financially feasible.”⁵¹

This consultation with state, and local governmental agencies, public and private organizations consultation was not done. The EA inaccurately represents the only two public meetings which occurred in Montana, both of which were overwhelmingly in favor of “no trail.”

In addition to the ecological benefits of rerouting the trail to the south, there are economic benefits for the local community. A southern reroute would benefit local businesses in the cities of Libby and Troy. According to Headwaters Economics, an independent Montana-based research group, trails can generate business impacts and create new jobs by attracting visitors, especially overnight visitors. Trails attract new residents as well as visitors, increase property values, and improve public health.⁵²

The economic impact of a trail on a town is directly correlated to the town's distance from the trail and the amenities the town has to offer, including laundromats, restaurants, grocery stores, medical care, and access to public transportation. The towns of Troy and

⁵¹ 16 U.S. Code § 1244 - National Scenic and National Historic Trails. www.law.cornell.edu/uscode/text/16/1244.

⁵² (2016). Headwaters Economics. <https://headwaterseconomics.org/wp-content/uploads/trails-library-overview.pdf>

Libby are perfectly poised to benefit from the PNT. Over 30 local businesses in Libby and Troy support a southern reroute.

Remedy:

Complete an EIS assessing multiple alternate routes and an economic analysis that defines economic costs of trail construction and economic benefits to communities.

6. Failure to Follow the Best Available Science

The Yaak Valley Forest Council entered into the record in our April 17, 2023, comment an independent, scientific review,⁵³ completed in 2018 by Dr. Frank Lance Craighead and Wayne P. McCrory, of the proposed PNT route through the Yaak. The study was commissioned with the purpose of assessing potential risks posed by the PNT to grizzly bear recovery in the Cabinet-Yaak Ecosystem and to determine how potential risks could be avoided. That there is no mention of this existing peer-reviewed science is further testament that this document is neither a scientific “EA” nor a usable CMP.

The Craighead/McCrory assessment concluded, as did the original 1980 Congressional review,⁵⁴ that the final route for the PNT should avoid the northern route proposed in the Yaak, which cuts through 21 miles of the U.S. Forest Service designated Grizzly Bear Core habitat. Both studies identified several alternatives to limit impacts to Cabinet-Yaak grizzlies. The study went on to state the PNT northern route through the Yaak will have a **serious negative effect on grizzly bears** through displacement of bears from high quality alpine habitats during the critical summer and fall feeding seasons concluding, “...***the best method to reduce the impacts of the PNT on grizzly bears and their recovery in the Yaak (and at the same time reduce human and bear risk and exposure in bear country) would be for the NEPA-EIS to thoroughly review alternatives and design an optimal route that provides as small as possible an environmental impact footprint by minimizing overlap of the trail route with important seasonal grizzly bear seasonal habitats.***”⁵⁵ (bold added)

⁵³ Craighead, Dr. Frank Lance, and Wayne P. McCrory. *POTENTIAL IMPACTS OF THE PROPOSED PACIFIC NORTHWEST NATIONAL SCENIC TRAIL ROUTE ON THREATENED GRIZZLY BEARS AND THEIR RECOVERY IN THE YAAK WATERSHED AREA, NW MONTANA*. 2018.

⁵⁴ *A Report Based on a Joint Study by the Forest Service and National Park Service*. National Park Service; United States Forest Service, 1980. p . 83.

⁵⁵ Craighead, Dr. Frank Lance, and Wayne P. McCrory. *POTENTIAL IMPACTS OF THE PROPOSED PACIFIC NORTHWEST NATIONAL SCENIC TRAIL ROUTE ON THREATENED GRIZZLY BEARS AND THEIR*

Yet, no trail routing alternatives were assessed.

This finding is further supported by a DNA study⁵⁶ that concluded grizzly bears in the Cabinet-Yaak Ecosystem, due to its small population, isolation and inbreeding, demonstrate the need for comprehensive grizzly management to support population growth, and increase connectivity with other grizzly populations.

Additionally, a peer new reviewed study⁵⁷ shows even short-term disturbance by low human presence can impact wildlife causing them to flee an area or disrupt foraging behavior. Long term impacts noted are decreased reproduction, increased stress, and spatial and temporal displacement. Large mammals, including grizzly bears, are noted as species of special concern due to their large spatial requirements, low population densities and low birth rates. In the Yaak ecosystem, where alpine habitat is extremely small and limited, there are no other suitable habitats to be displaced into, from such season-long disturbances.

The PNT was denied for 32 years for a reason: it was not economically feasible, and it was bad for Yaak grizzlies. So now the grizzlies and the American public are being forced, through this cursory and recreation-based document, to accept a thing done poorly, instead of not at all.

Remedy:

Follow the best available science and route the trail to minimize impacts on recovering grizzly bears.

7. Failure to Engage with and Incorporate Suggestions of the PNT Advisory Council

The USFS engaged the PNT Advisory Council on only one occasion during the development of the CMP, EA and prior to the release of the FONSI. The virtual meeting was held on June 15 and 16, 2023. A second meeting is/was scheduled two business days before Objections must be filed. During the June meeting advisory members were offered little opportunity to speak or comment. Comments and suggestions put forth for

RECOVERY IN THE YAAK WATERSHED AREA, NW MONTANA. 2018. yaakvalley.org/download/craighead-mccrory-final-yaak-report/?wpdmdl=1261&refresh=642f3d5187a221680817489.

⁵⁶ Kendall, Katherine C., et al. "Density, distribution, and genetic structure of grizzly bears in the Cabinet-Yaak Ecosystem." *The Journal of Wildlife Management*, vol. 80, no. 2, 2015, pp. 314-331.

⁵⁷ Sytsma, Mira L., et al. "Low levels of outdoor recreation alter wildlife behaviour." *People and Nature*, 2022.

consideration including increasing the planning corridor width to 20 miles were denied by USFS staff. Increasing the planning corridor would allow for reroutes of the trail out of critical wildlife habitat and assist with additional needed reroutes off of roads and away from private land. Failure to consider these ideas in written comment and from advisory members is a failure to listen to and consider public input.

Several members of the PNT Advisory Council voiced concerns about the PNT's impacts on grizzly bears and road density in core habitat during the June meeting.

The one additive component to the CMP following the June advisory meeting was advancing saddle stock use from a key use to a primary use of the trail. This is of course problematic on sections of the PNT that transect prime grizzly bear habitat.

The lack of an identified plan to monitor trail use was apparent during the June meeting of the advisory. When asked how will you monitor? USFS staff replied, "We are open to suggestion."⁵⁸ One member stressed the importance of monitoring use for grizzly bear core habitat security. Another questioned how the trails carrying capacity for resources would be monitored, concerned about tribal access to traditional foods on tribal traditional lands along the trail that would be foraged by trail users.

Remedy:

Listen to and consider public input.

8. Additional Unassessed Detrimental Impacts of the PNT

a. Border Security

The CMP offers no mention or direction for border security issues. There is no assessment of border permeability issues or the additional burden that will be put on Border Patrol agents to cover a trail that for much of its length hugs the Canadian border. Increased trail traffic will require enhanced border security measures. There are locations on the trail where more adventurous hikers can literally hop and skip over the line into Canada and back.⁵⁹ In the more heavily forested sections, such transgressions may evade even the scrutiny of drones. Recreationists crossing the border illegally from Canada

⁵⁸ Bachman, C. B. (2023). *Notes from the June 15-16, 2023 Pacific Northwest Trail Advisory Council Meeting*.

⁵⁹ McManus, Melanie. "Tips for Hiking the Pacific Northwest Trail." *The Thousand Miler*, 31 Oct. 2019, thethousandmiler.com/tips-for-hiking-the-pacific-northwest-trail/. Accessed 14 Apr. 2023.

back into the United States are committing a federal crime and risking a year in jail and a \$5,000 fine.⁶⁰

Remedy:

Explore alternate routes using Optimal Location Review criteria and meet the legal obligation for alternatives to the proposed action under NEPA.

b. Consultation

Failure to include in document the absence of consultation with local county commissioners and other parties. Inaccurate representation of the only two public meetings that happened in Montana, both of which were overwhelmingly in favor of no trail.

c. “No Trail” Alternative

The EA fails to consider a “No Trail” Alternative, which differs from a “No Action” alternative. While it is true the trail has been Congressionally designated, it is clear within the Kootenai National Forest section of the trail, at least, and in the recovery area for Yaak grizzly bear population, the agencies’ (USFS and USFWS) continuing inability to satisfactorily comply with the management aspect of the enabling legislation and continued unwillingness or inability to monitor trail usage, which is a very significant component in thus-far unassessed cumulative impacts a very real and ecologically sound alternative would be the moratorium of a tempora; “No Trail” alternative until these cumulative effects can be measured in whole (“cumulative”) rather than in piece by piece part, such as the document herewith. Even as independent biologists from around North America point out the demerits of the existing route, the USFWS’ own biologist acknowledges that no trail at all is what’s best for the Yaak grizzlies.⁶¹ After 7-plus years of attempted collaboration with the agencies and hikers’ club and other affected parties and stakeholders, the Yaak Valley Forest Council is beginning to seriously examine this alternative and wonder why it is not suggested or addressed here. In no place of the (brief; one-paragraph) enabling legislation of the 1200-plus mile trail did Congress authorize or encourage the continued diminishment of any endangered species habitat,

⁶⁰ Mehaffey, K.C. "Feds warn Pacific Crest Trail hikers about crossing border." The Seattle Times, 1 July 2010, www.seattletimes.com/seattle-news/feds-warn-pacific-crest-trail-hikers-about-crossing-border/. Accessed 14 Apr. 2023.

⁶¹ “Grizzly Habitat at Center of PNT Debate.” *Western News*, 12 July 2019, thewesternnews.com/news/2019/jul/12/grizzly-habitat-at-center-of-pnt-debate-12/.

least of all the grizzly bear: beneath whose umbrella of habitat are sheltered also wolves, wolverine, boreal toads, long-toed and Coeur d'Alene salamanders, leopard frogs, and the rest of Montana's long list of sensitive species and species of concern and endangered and threatened species, fully 25% of which are found on this one national forest alone.

Remedy:

Evaluate a "No Trail" alternative in the EIS.

d. Travel Hazards and Public Safety

Failure to discuss current hazards for road users, particularly on U.S. Highway 37, where the legislated trail directs thru-hikers to hike on a high-speed international transit corridor;

Service failed to address the impacts of the current proposed route on public safety issues, including an increased strain on limited emergency services of a rural area. The route, as proposed, goes through areas of the Yaak with very little and sporadic fresh water sources and extremely restricted cell service. This, in conjunction with the likely increase of human bear interactions, can yield an uptick in emergency situations, and strain the volunteer search and rescue services available in the surrounding area.

The southern route is more accessible to search and rescue operations and would extend seasonal access for a substantially longer hiking season. The Southern Route is a non-substantial relocation that would address public safety and grizzly population concerns.

Remedy:

Conduct an EIS and address road travel, community and safety concerns.

e. Economic and Community Impacts

Failure to analyze economic impacts/opportunities of trail, another factor in assessing/analyzing "fitted-ness" of the current trail location, and one of the key directives of the National Trails System;

Failure to disclose support and volunteer opportunities from local businesses in Montana, particularly in the long-desired Libby-to-Troy corridor (outside of designated core grizzly habitat);

The PNT, as currently proposed, requires hikers to take a 14-mile detour on the Yaak highway to meet even the most modest re-provisioning needs. The Southern Route passes through two larger cities providing hikers with resupply options. Under Service's Optimal Location Review, the Southern Route is supported by numerous principles, most importantly allowing for the trail to sustain the types and amounts of expected use and can be maintained to avoid unacceptable environmental costs.

Remedy:

Conduct an EIS evaluating alternative routes and impacts and benefits to communities along the trail.

f. Water Sources

Water sources—the limiting factor for human survival—are stated as being insignificant to trail management/existing route, even while planning to create human-made watering sources in the backcountry should it become “necessary.”

Remedy:

Conduct an EIS evaluating alternative routes and impacts and benefits on water resources.

g. Climate Impacts

Failure to assess or acknowledge the cumulative impacts of trail visitation and changing climatic conditions on endemic TES species including loss of habitat security and forage availability—including huckleberries—for grizzly bears, potential for water loss in a changing climate, and a greater concentration of grizzlies in riparian areas.

Remedy:

Complete an EIS and take a “hard look” at cumulative impacts of the PNT and past, present and future projects on the ecosystem.

h. Davis Fire

Failure to address the cumulative impacts of loss of habitat and breeding wetlands for amphibians due to wildfire.

Remedy:

Complete an EIS and take a “hard look” at cumulative impacts of the PNT and past, present, and future projects on the ecosystem.

i. Subdivisions

Failure to address two, potentially three, subdivisions in development stages in the Yaak valley.

Remedy:

Complete an EIS and take a “hard look” at cumulative impacts of the PNT and past, present, and future projects on the ecosystem.

9. Failure to Consider Rerouting the National Scenic Trail

We request that the agency sincerely considers a minor reroute of the portion of the PNT that currently runs through the northern Yaak Valley out of the CYE’s core grizzly bear habitat, or, lacking that, place a moratorium on thru-hiking in the Yaak region until such point as the grizzly population in this ecosystem has reached recovery as defined in the 1993 Grizzly Bear Recovery Plan.

During the scoping process, the YVFC comment letter proposed an alternative route that sends the PNT thru-hikers south of the Yaak Valley, away from grizzly core recovery zones, and along a similarly beautiful, wild, and remote in character. The proposed Southern Route summits peaks with sweeping views and lookout towers, traverses cedar and hemlock forests, and accesses the larger better equipped towns of Libby and Troy. The Southern Route could bring economic benefits to these communities while reducing the likelihood of border patrol interactions.

Rerouting of a National Scenic Trail is allowable under 16 USC 1246(b): Administration and Development of National Trails System. Per the National Trails System Act, the National Trails System shall be “*designed to harmonize with and complement any established multiple-use plans for that specific area in order to insure continued maximum benefits from the land.*”⁶²

Grizzly bear recovery is an established use of the area.

⁶² "THE NATIONAL TRAILS SYSTEM ACT." *NPS.gov* (U.S. National Park Service), www.nps.gov/subjects/nationaltrailssystem/upload/National-Trails-System-Act-Amended-2019.pdf. Accessed 3 Nov. 2022.

Under the National Scenic Trails Act, the USFS has the authority to make this modest alteration in the Yaak portion of the 1200-mile-long trail. Non-substantial relocations, indicated as less than 10% of the trail (120 miles) in the CMP⁶³ may occur to promote sound management practices if the following conditions under 16 U.S. Code § 1246(b) are met:

(b) Relocation of segment of national, scenic or historic, trail right-of-way; determination of necessity with official having jurisdiction; necessity for Act of Congress

After publication of notice of the availability of appropriate maps or descriptions in the Federal Register, the Secretary charged with the administration of a national scenic or national historic trail may relocate segments of a national scenic or national historic trail right-of-way, with the concurrence of the head of the Federal agency having jurisdiction over the lands involved, upon a determination that: (i) such a relocation is necessary to preserve the purposes for which the trail was established, or (ii) the relocation is necessary to promote a sound land management program in accordance with established multiple-use principles: Provided, That a substantial relocation of the rights-of-way for such trail shall be by Act of Congress. (emphasis added)⁶⁴

Grizzly bear recovery is an established sound land management program.

Non-Substantial relocations are under the purview of the Secretary of the managing agency. Up to 120 miles of the PNT can be relocated (using the 10% in the DCMP) without an Act of Congress. Only 76 miles of the 1156-mile proposed route, 7% of the total length, would pass through the CYGBRZ, rerouting this section of the trail falls within the non-substantial 10%. Failure to address sound grizzly bear management practices at the onset of route designation will have predictable and avoidable negative impacts to the struggling but recovering, ESA threatened, Yaak grizzly bear population.

Confrontations between PNT recreationists and grizzly bears, likely ending in bear mortality, is a threat to the recovery of Yaak grizzly bears. *“The timing, amount and types of human recreational use on hiking trails and roads has a strong bearing on the risk of grizzly bear-people encounters (as well as displacement of grizzly bears), just as would*

⁶³ U.S. Forest Service. *Pacific Northwest National Scenic Trail Comprehensive Plan Public Scoping Document*. USDA, 2022, p.10.

⁶⁴ "16 U.S. Code § 1246 - Administration and Development of National Trails System." *LII / Legal Information Institute*, www.law.cornell.edu/uscode/text/16/1246.

the estimated number of grizzly bears in the Yaak at full recovery magnify the encounter risk (and displacement) effect.” “The peak of PNT recreation use after build-out would coincide mostly with the Yaak grizzly bear summer season (June 16-Sept. 15) and to a lesser extent with the grizzly bear spring season (April 1-June 15) and the fall season (Sept. 16-Nov. 30). This is relevant in terms of the overlap of PNT seasonal recreation use with grizzly bear seasonal habitats and travel corridors and their relationship to grizzly bear encounter risk and habitat displacement”⁶⁵

Recreationist/grizzly bear conflict is of particular concern in the Yaak grizzly population. The most likely type of dangerous encounter would be defensive behavior by mother grizzly bears with cubs, bears critical to population recovery, due to surprise at close range.⁶⁶ Statistics show females with young were involved in at least 74% of injurious encounters with hikers even though they comprise only 16-20% of grizzly bear population.⁶⁷ Avoiding key high quality habitats would reduce the risk of encounters leading to injury or death or recreationists and grizzly bears. Grizzly Bear management can be enhanced through identification of seasonally important grizzly feeding areas and travel routes, then rerouting visitor use or redesigning trails in dangerous areas. These management actions would thereby reduce sites of grizzly bear-human confrontations in the future.⁶⁸

Grizzlies and other animals can be displaced from needed resources by human activities on trails, often without the knowledge of recreationists. This *“unintentional harassment of animals and... entry into grizzly bear habitat can displace bears or, where bears habituate to humans, lead to encounters that eventually result in destruction of the bear.”*⁶⁹ To minimize the risk to grizzly bears an EIS must be prepared that analyzes alternate routes that reduce displacement and encounter risk. Yet, no other Alternatives have been mapped or considered for the present government review process.

⁶⁵ Craighead, Dr. Frank Lance, and Wayne P. McCrory. *POTENTIAL IMPACTS OF THE PROPOSED PACIFIC NORTHWEST NATIONAL SCENIC TRAIL ROUTE ON THREATENED GRIZZLY BEARS AND THEIR RECOVERY IN THE YAAK WATERSHED AREA, NW MONTANA*. 2018. yaakvalley.org/download/craighead-mccrory-final-yaak-report/?wpdmdl=1261&refresh=642f3d5187a221680817489

⁶⁶ Ibid

⁶⁷ Joep, K.M. 1982. Interactions between grizzly bears and hikers in Glacier National Park, Montana. Final Report, Contract #PX 1430-1-0623. Cooperative Park Studies Unit, Oregon State University, Corvallis, OR, USA.

⁶⁸ Nadeau, M.S. 1987. Habitats, trails and campground situations associated with grizzly-human confrontations in Glacier National Park, Montana. M.Sc. Thesis, Univ. Montana, Missoula, Mt. 91 pp. Theses, Dissertations, Professional Papers. Paper 7364. <http://scholarworks.umt.edu/etd>. Accessed 18 Nov 2017.

⁶⁹ Cole, D.N., and R.L. Knight. 1990. Impacts of recreation on biodiversity in wilderness. In: *Wilderness Area: Their Impacts - Proceedings of a Symposium*; Logan, UT. Logan, UT: Utah State University: 33-40.

The proposed northern route passes through high elevation mountain ranges suited to winter recreation. Winter recreation may impact denning grizzly bears and wolverine natal/maternal dens, another consideration the EA fails to address.

The purpose of any National Scenic Trail is to conserve the natural resources within the trail corridor. This includes not only protecting the natural beauty, but the habitat and its wild inhabitants. All possible steps and alternatives designed to avoid negative impacts to threatened grizzly bears must be taken. Rerouting the proposed trail out of the Yaak is a proactive step to preemptively mitigate reactions to future avoidable conflict, potentially death or injury to a human and the subsequent management action resulting in the death of a grizzly bear. With only 3 females with cubs of the year in the last survey,⁷⁰ the loss of even one female to the population would have a serious impact, threatening extinction of the population. Human encounter is a leading cause of grizzly bear mortality, either directly or through subsequent management actions.

We can protect ecosystems not only through our choices of where we locate recreational trails with their associated protections, but by our choices of where to *not* locate recreational trails. Grizzly Bear Recovery Zones should prioritize grizzly bear recovery over human recreation. A wild place without its wildlife is diminished scenery.

Loss of habitat due to human encroachment is displacing wildlife at record pace. There remain but few wild places for wildlife like grizzly bears to thrive. Much of that habitat is designated within the Grizzly Bear Recovery Zones. Surely, we can allow space away from human activity for other species to survive if not thrive. Suitable secure grizzly habitat away from population centers must be retained and prioritized, as already designated, for grizzly recovery.

In conclusion, all steps necessary to protect and conserve the Yaak grizzly bear population and other endemic endangered species⁷¹ must be taken. Full analysis of impacts and consideration of a full range of alternatives is required by the ESA, NEPA and by the stated purpose of the trail. The Southern Route, and other alternate routes, should be given full consideration as alternatives in an Environmental Impact Statement. The current EA is inadequate. Further, the managing agency—the U.S. Forest Service—has full authority to modify the route in areas where the current location conflicts with grizzly

⁷⁰ Kasworm, Wayne F., et al. *CABINET-YAAK GRIZZLY BEAR RECOVERY AREA 2021 RESEARCH AND MONITORING PROGRESS REPORT*. United States Fish and Wildlife Service, 2022.

⁷¹ "ECOS: Untitled Page." ecos.fws.gov/ecp/report/species-listings-by-state?stateAbbrev=MT&stateName=Montana&statusCategory=Listed.

bear recovery, hiker safety or results in resource damage. Re-routing out of designated core grizzly habitat in the Yaak is a clear need and on a 1200-mile-long trail fits well within the agency's authority.

The document reviewed is not a Comprehensive Management Plan. It is a comprehensive carte blanche for unmonitored recreation in some of the most sensitive habitat in the public lands treasury.

Remedy:

Explore alternate routes using Optimal Location Review criteria and meet the legal obligation for alternatives to the proposed action under NEPA.

Thank you for your consideration of our comments.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chris Bachman', followed by a horizontal flourish line.

Chris Bachman
Troy, MT 59935