

Swan View Coalition Nature and Human Nature on the Same Path



3165 Foothill Road, Kalispell, MT 59901

swanview.org & swanrange.org

ph/fax 406-755-1379

May 27, 2012

Scott Snelson, District Ranger
Spotted Bear Ranger District
PO Box 190340
Hungry Horse, MT 59919

Re: Comments on Spotted Bear Mountain EA
Sent as PDF to comments-northern-flathead-spotted-bear@usda.gov

Dear Ranger Snelson;

Please accept these comments on the Spotted Bear Mountain EA into the public record. We incorporate by reference our 12/9/21 letter in this matter submitted during Scoping. We also incorporate by reference the comments being submitted by Friends of the Wild Swan on this EA.

EA Cites to Inadequate Forest Plan Biological Opinion

The Project EA, at 38 and 41, cites to a “forest plan biological opinion” identified in the References section (at 82) as the 2017 BiOp on the revised Flathead Forest Plan. As we detailed in our Scoping comments, that BiOp was found legally inadequate by U.S. District Judge Donald Molloy on 6/24/21.

FWS issued a revised BiOp on the Plan on 2/16/22 and sent it to the Flathead National Forest that same day. The April 2022 EA does not cite to nor acknowledge the existence of the revised BiOp. Nor does it describe how the revised BiOp, the Forest Plan, the Project EA, and the Project itself remedy the legal inadequacies identified by Judge Molloy. Nor does the EA describe how the Project has been made consistent with the revised BiOp and any changes it requires in the Forest Plan and Project.

Indeed, the EA is silent on this entire issue even though it occupied the majority of our Scoping comments.

The Revised Plan Biological Opinion

We find the revised BiOp to suffer the same legal inadequacies Judge Molloy found in the 2017 BiOp, especially in regards to the abandonment of Amendment 19’s requirements. The revised BiOp emphasizes several times in bold face that the Forest

Plan and its implementing projects will and must maintain the 2011 **“on the ground”** grizzly bear habitat conditions. Yet it still allows the construction of new roads and the reconstruction of old roads without them showing up/being counted in TMRD.

Projects like Spotted Bear Mountain, for example, can build new roads and rebuild historic roads (even through Secure Core) and then simply close them as “impassable” roads - rather than have to reclaim and/or decommission them in order to omit them from TMRD. Rebuilding historic road 10119 in this Project, extending it with more new construction and then simply rendering the road “impassable” to motor vehicles for the first 50’ does not provide the grizzly bear security that the previous status of historic road and “no road” provided. Brand new road templates and old templates newly cleared of vegetation (EA at 25) do not provide the previously existing impediments to human travel nor the resulting **“on the ground”** habitat conditions and security that previously existed for grizzly bear.

By not requiring that “impassable” roads be included in TMRD, the Project, Plan and Plan BiOp allow unlimited miles of roads to be constructed without increasing TMRD above 2011 levels. While this sleight of hand may maintain 2011 numbers, it most certainly does not maintain 2011 **“on the ground”** habitat conditions” and habitat security – premises and promises upon which the Plan and its BiOps are based.

This sleight of hand is perpetuated in the EA, where it notes on page 8:

The Spotted Bear Mountain Project does not propose any changes to public motorized access in the project area . . . All temporary roads would be rehabilitated following timber harvest activities and would cease to function as roads. Approximately 3.4 miles of roads would be constructed and added to the NFS road system in intermittent stored service condition and made impassable (as defined in the forest plan) to wheeled motorized vehicles.

Hidden in this statement is the presumption that, by not increasing public wheel-driven motorized access, the project will not increase public non-motorized access – which is simply not true. “Impassable” roads continue to function as roads for non-motorized public access that has documented negative impacts on grizzly bears. These roads also provide for additional impacts by wheel-driven motorized trespass of the “impassable” barrier and the lawful use of motorized over-snow vehicles, which in the case of Road 10119 and its extension, accesses grizzly bear denning habitat via tree clearing in Units 22 and 30 (EA at 40). But those impacts are not accounted for by showing the actual increase in total road density/TMRD – they are instead dismissed/omitted as though the new roads don’t exist and have no impacts.

Inadequate Range of Alternatives

The EA develops no alternatives to its Proposed Action that would address public comment and other issues. For example, there is no alternative that would limit vegetative treatments to the WUI. Nor is there an alternative that would require no road construction, either temporary or permanent. Nor is there an alternative that would meet the 19/19/68 “research benchmarks” for eliminating the incidental take of grizzly

bear through those limits on OMRD/TMRD/Secure Core. These are all issues raised during scoping and highlighted by ongoing litigation and Judge Molloy's order.

Nor does the EA make clear that the Proposed Action in the EA is not the same as the Proposed Action in the Scoping Notice. One must carefully examine the list of road miles and cutting units, alongside Map 1 and the Scoping Notice, to locate where seed tree cutting has been reduced by 10 acres and new road construction has been increased by 0.7 miles compared to Scoping, including a 0.04-mile increase in new road construction in Secure Core, presumably by the extension of Road C in Unit 31B (see EA at 7 and Map 1).

In other words, the EA exacerbates the issues involving road construction, but under the guise of still being the Proposed Action. NEPA requires a broad range of alternatives to address these issues and changes to prior alternatives. Again, where is an alternative that reduces road construction and reconstruction – or one that complies with the 19/19/68 limits to eliminate incidental take of grizzly bear?

The EA does not invoke the Healthy Forests Restoration Act and hence does not qualify for HFRA's exemption from NEPA's requirement that federal actions must be evaluated through the development of a wide range of alternatives. The EA evaluates only one action alternative, the obscurely changed Proposed Action, in violation of NEPA.

Grizzly Bear Analysis

The EA's analysis of effects on grizzly bear is confusing and contradictory. On page 36 the EA states that the proposed activities that affect access management conditions will last "four years." On page 41, the EA states proposed activities that affect access management "would not exceed five years . . . and access conditions would be restored to pre-project levels within one year after completion of the project."

On page 36, however, the EA states:

The length of time for all the proposed activities associated with the Spotted Bear Mountain Project is approximately ten years. This is based on the probable contract length for the proposed project, and the timeframes for related activities.

So, is the project going to disrupt the area and cause changes to access conditions for less than five years or, given the project is likely to last ten years due to contract lengths, is it going to disrupt the area and access conditions for ten years? What is being implied here is that, somehow, the latter 5 or 6 years of the 10 years of project activity will not require any disruption to the pre-project access conditions. Are the loggers going to walk in to work and carry the logs out on their backs, then walk in later to hand-pile all the slash, or what? Our experience reviewing almost every timber sale on the Flathead NF is that projects indeed take 10 years or more to complete and that, if contracts are initially written for a shorter time frame, they are often extended. The EA does nothing to reconcile these circumstances and conflicting statements.

Table 36 on page 41 of the EA appears to stick with the 4-year story of temporary changes in access density, but says nothing about when “post-project” begins. Why does Table 36 not use the more conservative 10-year time frame?

Table 37 on page 41 of the EA is of little help, nor is it described, referenced or discussed anywhere in the EA. We must presume that the numbers in Table 37 are percentage points and that those for OMRD and TMRD are increases while those for CORE are negative (even though they are listed as positive)? From what we can discern, Table 37 appears to stick to the 4-year story because temporary change averages are largest in the first 5 years and only begin to decrease in year 6 – assuming year 5 “looks back” to year 1, year 6 looks back only to year 2, and so on. At least that is the only way to make sense of Table 37’s calculated values.

The “moving window” footnote to Table 37, however, says that the column header is the “year range in moving window analysis.” Those column headers clearly imply that the year range counts forward 10 years and looks back not at all (year 5 states years 5-14, for example). If that is truly the case, then the first 4 years would calculate 4.8 for the temporary increase in OMRD ($4 \times 12 / 10 = 4.8$; assuming 4 years of temporary change) and year 5 and those thereafter would calculate zero because the 4-year temporary change does not apply in those date ranges. The EA provides no explanation whatsoever of what appears to be some sort of hybrid calculation or misnaming of column headers.

Forest Plan Appendix C instructions and examples on how to calculate the 10-year temporary increases (pages C-68 and -69) are of limited help because the two examples there apply the temporary access changes to the last years of the decade instead of EA Table 37’s first years of the decade. We are able to reproduce the numbers given in Table 36 (which shows the 10-year average change values below the 5-3-2 limits for increases in OMRD and TMRD and reductions in CORE set forth in FW-STD-IFS-03) only when we use the “look-back” process described above for a 4-year project duration.

When we use that “look-back” process for longer project durations, however, compliance with FW-STD-IFS-03 goes out the window! When we multiply the 12% increase in OMRD by a 5-year duration, we get 60 which, when divided by 10 results in 6, not 4.8, which is greater than the 5% increase allowed by FW-STD-IFS-03. And when multiplied by a 10-year project duration, we of course end up with 12×10 then divided by 10, or the initial increase of 12% as also the 10-year average. No wonder the EA tries to make it look like Spotted Bear Mountain will be a 4-year project; because that duration is the only one that would comply with FW-STD-IFS-03!

As we argued in our Objections to the revised Forest Plan, FW-STD-IFS-03 really is nothing more than an attempt to water down the true impacts of increased road access for logging and other projects. What the bears experience is an immediate and years-long impact from increased motorized access, not a “running 10-year average.” The EA’s treatment of FW-STD-IFS-03, as botched as it is, is a testament to why FW-STD-IFS-03’s leniency to increased access and its associated logging impacts should not be allowed to stand.

The EA contains no maps showing Grizzly Bear Management Subunits, areas of hiding cover, areas of foraging habitat, areas of denning habitat, or areas where OMRD exceeds 1 mi/square mile or TMRD exceeds 2 mi/square mile. These omissions make it impossible to compare proposed roads and vegetation treatment units with those key indicators and resource concerns. Such maps are easy to produce and belong in the EA, not just in a Project File that cannot be quickly accessed by the public and decision-maker. This is a violation of NEPA's public disclosure and "hard look" requirements, among others.

Wolverine

Similarly, the EA contains no maps showing areas considered potential maternal wolverine/denning habitat, primary wolverine habitat and female dispersal habitat. These are all key indicators for evaluating compliance with the Forest Plan and assessing impacts to wolverine and wolverine habitat (EA at 43). Without these maps it is impossible to compare proposed roads and vegetation treatment units with those key indicators and resource concerns. This violates NEPA.

The EA, at 44, states that "32 acres of precommercial thin and 6 acres of seed tree treatment" would occur in "potential wolverine maternal (denning) habitat." (Parenthesis in original). The EA does not disclose which treatment units those are, so it is impossible to locate them on Map 1, let alone see which portions of those units are located in potential denning habitat. This also is a violation of NEPA's public disclosure and "hard look" requirements, among others.

The EA makes no mention of the effects of new permanent road access on wolverines. As noted earlier in this letter, those new roads will simply be rendered "impassible" to wheel-driven motor vehicles, not reclaimed and re-vegetated. These leaves them available for illegal motorized trespass, lawful non-motorized use, and lawful use by over-snow motorized vehicles. In other words, the Project increases access by over-snow vehicles not only to grizzly bear denning habitat, but likely wolverine denning habitat as well. But the EA is absolutely silent on this issue, in violation of NEPA.

Other Map Inadequacies

The EA contains no maps of "potential denning habitat for gray wolves," even though this is an indicator to "evaluate compliance with forest plan standards and guidelines" (EA at 49).

The EA contains no maps of winter snowshoe hare habitat, lynx foraging habitat, lynx Critical Habitat, "potential Canada lynx habitat," or areas of "potential Canada lynx habitat by structural stage affected by vegetation management" (EA at 26-27).

The EA contains no maps of ungulate habitat, let alone those areas/acres of ungulate habitat affected by vegetation management, even though this is an indicator to "evaluate compliance with forest plan standards and guidelines" (EA at 45).

The EA contains no maps of “species-specific habitat components affected by vegetation management,” even though this is an indicator to “evaluate compliance with forest plan standards and guidelines” (EA at 50).

The EA contains no maps of old-growth, no maps of where other large trees are located and no maps of the stands that are the best candidates for old-growth recruitment – even though all of these are important components of “the desire to maintain and increase the percentage of old growth . . . and very large live trees in the project area” (EA at 24). Without such maps it is impossible to determine the juxtaposition of these areas with proposed roads and vegetation treatments.

The EA contains no maps highlighting the combination of regeneration harvest units that alone or in various combinations will create openings greater than 40 acres. Nor does the EA contain a listing of what those unit combinations are and what their combine acreages total. Without such maps and listings, it is impossible to determine where regeneration openings of what total sizes would be located. This in turn makes it impossible to estimate what the potential will be for blow-down of adjacent forest stands and for the increased rate of fire spread that comes with opening up forest stands to more sun, drying and wind (see our Scoping letter for more on this).

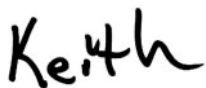
The EA contains no map that clearly shows all the roads in the Project area along with their road numbers, including Historic roads. The public should not have to purchase a Forest or District map to determine the road identification numbers so it can provide informed and precise public comment on the EA. And, given the Flathead’s propensity for rebuilding Historic roads and adding them back into the Road System under its revised Forest Plan, **ALL** Historic roads must be shown on the maps to provide even a clue to the cumulative effects of past and future road-building and logging projects.

The above is but a partial listing of key resources and indicators missing from maps in the EA. All deprive the public and the decision-maker of a clear picture of the Project and its effects upon the environment. These violate NEPA as already described above.

Conclusion

The EA fails to provide an adequate cumulative effects assessment of the Project, past and reasonably foreseeable actions. Indeed, the term “cumulative effects” appears once, on page 43, and then only in reference to a cumulative effects analysis that is never presented! An EIS is required for the reasons detailed above and in our Scoping comments. Wolverine is again proposed for ESA listing and must be treated as such.

Sincerely,



Keith J. Hammer
Chair