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Bitterroot National Forest

Attn: Forest Plan Amendment

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#### SCOPING COMMENTS for PROPOSED BNF FOREST PLAN AMENDMENT of EHE OBJECTIVES

The Bitterroot National Forest is reviewing Elk Habitat Effectiveness (EHE) Objectives with the intent to implement a Bitterroot Forest Plan amendment that would allow more road building, cover removal and resulting degradation of elk habitat than is currently permissible.

The Bitterroot Forest Plan (1987) is the foundational document for management of Bitterroot National Forest (BNF) public land. Forest Plans serve as a legally binding property management contract between Forest Service land managers and the public owners. Forest Plans are required and authorized by the National Forest Management Act (NFMA). The Forest Plan defines management goals, objectives and standards. Project level activities are planned and implemented to carry out the management direction described in the Forest Plan and are required by law to use National Environmental Policy Act (NEPA) analysis, disclosure and public involvement processes.

The underlying BNF Forest Plan Management Objective for elk states, "Provide optimal habitat on elk winter range (Appendix G). (FP, p.II-5). The dictionary defines optimal as "best or most favorable". The proposal to amend the Forest Plan to allow additional elk habitat degradation is clearly contrary to this stated Objective. EHE standards relate to thermal, and hiding cover, cover/forage relationships, and hunter opportunity. EHE standards are a primary check on excessive road density, help protect forest cover and influence hunter opportunity. They serve to limit a wide variety of damage related to roads and logging. In other words, EHE standards serve as a surrogate to protect various resources and important aspects of a healthy forest in addition to elk. EHE is about habitat, not just elk, as the BNF would like to frame it. Elk habitat destruction lasts a lot longer than a few hunting seasons. Many generations of elk will need to get by on less prime habitat.

The Montana state policy when analyzing a permit for an expansion of Big Velvet elk ranch was to prioritize loss of elk habitat used by public's elk above the loss of public elk when they would be driven out of the fenced area. The primary impact was about the loss of habitat.

Among the damaging environmental effects of roads are degradation of water quality, increased stream channel instability, increased high flows, decreased late season stream flows, and decreased habitat effectiveness for various species including protected bull trout, grizzly bears and lynx as well as elk and others. Forest Plan objectives speak of "maintaining habitat to support viable populations of wildlife species", not just elk.

The BNF is now proposing a Forest-wide Forest Plan amendment regarding EHE. The "purpose for and the effects of the amendment" must be considered in the review. (project scoping letter) Elimination or changes to EHE standards would directly result in environmental effects to a variety of resources and forest conditions, and therefore must be analyzed and disclosed in NEPA documents and public process.

For example, fish have benefited from elk habitat protection). EHE is measured by 3rd order drainage, not Management Area, hunting district, herd range, etc. Thus, changing the standard would clearly impact '3rd order drainage' water quality, given that roads are the biggest management impact on water quality.

BNF Forest Plan EHE Standards state: "...attain or maintain 50 percent or higher elk habitat effectiveness (Lyon

et al. 1983) in currently roaded third order drainages." (FP, p.II-21) The existing condition of many third order drainages are not in compliance with the Forest Plan standard (project scoping letter) due to excessive road density.

In order to build yet more roads in areas of high road density the BNF has routinely exempted itself from its EHE Objectives and Standards contractual obligations for most recent timber sale projects through "project (aka, site) specific" Forest Plan amendments.

The BNF has used EHE site specific amendments on 226,119 acres in the past 12 years. The BNF has a total of 389,820 acres suitable timberland (FP, p. III-2).

Project (site)-specific amendments are meant to address unique characteristics of a particular forest area, not conditions that are common throughout an entire forest. For example, in *League of Wilderness Defenders, et. al. v. Connaughton, et al.*, plaintiffs challenged that the Snow Basin project area did not have distinguishing characteristics, and therefore a site-specific amendment was not justified. No. 3:12-cv-02271-HZ (D. Or. Dec. 9 2014). The court agreed with the plaintiffs, holding the agency's decision to make site-specific amendments was arbitrary and capricious because the Forest Service failed to explain what conditions within the project area supported selection of a site-specific amendment over a forest-wide amendment. *Id.* at 54-55. The court explained that a site-specific amendment "must be based on unusual or unique aspects of the site itself when compared to the forest generally." *Id.*

For nearly five years citizen owners of the BNF have challenged FS managers regarding over-use of "project specific" exemptions from EHE Standards given to timber sales. BNF managers are finally responding, not by proposing to ease back on accumulating damaging impacts but by proposing to weaken legal limits, essentially moving the goalpost permanently.

Darby Lumber Land II and Gold Butterfly (on the chart above) are pending timber sales that rely on project specific EHE amendments. Citizens challenged this illegal maneuver on both these projects. Our Objections, based on repeated illegal use of project-specific forest plan amendments were denied. Now, immediately after pointedly denying proper analysis and public process for these 82,600 acres, the BNF sees the need to re-evaluate. The results of this overdue process will not help inform those two projects, unless those projects are suspended until the results are available.

The language from page II-21 in the Plan reads, "Manage roads though the Travel Plan process to attain or maintain 50 percent or higher elk habitat effectiveness (Lyon, 1983) in currently roaded third order drainages. Drainages where more than 25 percent of roads are in place are considered roaded. Maintain 60 percent or higher elk habitat effectiveness in drainages where less than 25 percent of the roads have been built."

The language of the % roaded concept needs to be clarified; it seems to indicate a master plan map that has not been disclosed.

"Elk Habitat effectiveness values of 50 percent and 60 percent equate to open road densities of 2 miles and 1 mile of open road per square mile of land, respectively (Lyon 1983). This standard supports the Forest Plan objectives of maintaining habitat to support viable populations of wildlife species and cooperating with the state of Montana to maintain the current level of big game hunting opportunities (USDA Forest Service 1987a, page II-5)." BNF Travel Plan, p.84

Travel Plan Table 3.5- 29: Number of Third-Order Drainages Meeting and Not Meeting the EHE Standard for the Existing Condition (Alternative 2) p. 85)

# Third -Order Drainages in Compliance with EHE Standard - 275

# Third-Order Drainages Out of Compliance with EHE Standard - 111

"This analysis likely overestimated the amount of security area on the Bitterroot National Forest, since the latest VMap product is based on 2002 satellite imagery. Wildfires and timber harvest that reduced hiding cover since that time are not reflected in these security area estimates." (TP, p.88)

"This security area analysis shows that none of the Hunting Districts used as surrogate elk herd units comes close to meeting the 30% minimum level recommended by Hillis et al. (1991). This is partly due to high open road and trail densities in some areas, and partly due to a lack of cover in some areas."

Coordinating Elk and Timber Management, Lyon, et al, p.45, says, in the Sapphire Mountains "elk avoided new clearcuts almost entirely". Gold Butterfly and Darby Lumber Land II timber sales have both waived EHE

standards and both allow for clearcuts.

This is no time to be allowing increased elk habitat destruction.

Hunter opportunity

"Most of the third-order drainages that do not meet the EHE standard are either in HD 250 or HD 270 {{Project File document WILD-110.pdf}}. The elk population in HD 250 has declined dramatically since 2005 and has typically failed to meet the FWP objective for elk populations (Table 3.5-26). The elk population in HD 270 has remained stable or increased slightly since 2005 and has exceeded the FWP objective every year since then (Ibid). This difference in elk population trends shows that there is not necessarily a linear relationship between EHE and elk populations and illustrates that EHE is only one of many factors that may influence elk populations in an area." (TP, p. 85)

"Backcountry trails were often constructed on ridge tops or in creek bottoms because those were generally the easiest travel routes. Many ridge top trails in elk summer range on the BNF are currently open to motorized vehicles (typically motorcycles). Motorized trails on ridge tops, especially in alpine and/or elk summer range, could have a disproportionate effect on elk and other wildlife species because disturbance and noise resulting from motorized vehicles can disturb animals in basins on either side of the ridge. Effects of this disturbance could include displacing elk and other species from summer ranges to winter ranges on private lands prior to the hunting season, where elk become unavailable to most hunters (See discussion on FEIS 3.5-91 to 95)." (emphasis added)

The BNF claims stable or increasing numbers of elk on hunting districts mean they are maintaining hunter opportunity. This means little to the hunter when those elk are on inaccessible private ground.

(TP, p.87) "Elk in many areas, including the Bitterroot drainage, have started to use large areas of private land where hunting access is limited or not permitted as security areas, even though little or no vegetative hiding cover exists."

The BNF should bring our public land into compliance with their legal obligations in the Forest Plan, not simply move the goal post to allow getting the cut out on an overcut forest to the detriment of so many public interests.