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Organization: Native Ecosystems Council
Title:
Comments: 1. Name, location of the project, and name and title of responsible official.

East Pioneers Watershed Project located on the Dillon and Wisdom Ranger Districts of the Beaver-Deerlodge National Forest; the Responsible Official was not identified in the draft Decision Notice; however, the predicisional announcement for the project was signed by Wisdom District Ranger Molly Ryan and Evan Burks, Acting Dillon District Ranger, so these appear to be the Responsible Officials; if not, the DBND Forest Supervisor, Cheri Ford.

2. Attachments for this Objection.
Please note that we have included 3 appendices along with this objection. Appendix A includes a number of photographs taken by NEC in the EPW over the years, including on a Forest Service-sponsored field trip to the EPW in 1998.

Appendix B includes copies of relevant reports and/or publications cited in the objection. Appendix B includes copies of relevant reports and/or publications cited in the objection. Appendix C contains a Declaration by Sara Johnson addressing the values of woodland-shrubland and savanna habitats to wildlife, including 10 Montana Species of Concern.

3. Connection between prior comments submitted by objectors and the draft decision.
On June 30, NEC and AWR submitted comments on the Environmental Assessment (EA) for the East Pioneers Watershed (EPW) project. We are incorporating these comments "by reference," rather than repeating them at this time. In addition, the BDNF has addressed almost all of these comments in the draft Decision Notice (ON}} in the Response to Comments. In general, these comments raised a concern that there was no scoping period for this project; there was no survey for noxious weeds in the proposed treatment areas; there was no description or inventory of Montana Species of Concern that may occur in the proposed treatment acres; the agency failed to complete an Environmental Impact Statement for management actions planned in Inventoried Roadless

Areas; the agency is violating the Roadless Area Conservation Rule by implementing management actions in 2 IRAs, the East Pioneers and Cattle Gulch IRAs; there was no analysis as to how prior slashing/burning projects in the EPW had affected Montana Species of Concern; the science and monitoring used to claim creating a diversity of age classes in sagebrush benefits wildlife was not provided; the destruction of limber pine is not restoration of wildlife habitat, including within IRAs; the acres of sagebrush that would be removed in this project were never identified; current recommendations for removing conifers from sage grouse habitat do not include burning of sagebrush; big game winter, calving, and fawning habitats were not identified in the EA; the EA did not evaluate now removing conifers would impact big game security; the proposed treatments will create significant disturbances that will be evident to the public; past slashing and burning activities in the EPW were not identified; and the risks of increasing wildfires by expanding noxious weeds and invasive annuals was not evaluated.

Since NEC and AWR submitted these joint scoping/EA comments, there has been a new issue that has developed. This is the failure of the BDNF to do a National Environmental Policy (NEPA) analysis of the changed mapping that was completed for the threatened lynx on this forest. The public was not provided any public involvement opportunities on this new mapping. In addition, the BDNF currently does not have a valid Biological Opinion (BiOp) on lynx management from the U.S. Fish and Wildlife Service (FWS). The current Biological Assessment and BiOp for lynx management on the now-occupied BDNF does not evaluate management impacts on all lynx habitat, just what the agency defines as occupied lynx habitat. Thus significant areas of the BDNF that provide habitat for the lynx have not been addressed in either the BA or BiOp. This is relevant to the EPW project because the proposed slashing/burningof woodland/shrubland habitat will impact lynx by reducing alternate prey species, including jackrabbits. As is required by the Endangered Species Act (ESA), projects such as the EPW project that will affect lynx habitat need to be addressed by the Forest Service in a BA, and by the FWS in a BiOp. Until this requirement is met, the EPW cannot go forward.

Since the lack of a valid NEPA analysis of the lynx habitat remapping done on the BDNF, and of a valid BiOp from the FWS to address management impacts on all forest lands that may be occupied by lynx, are new issues that have arisen since NEC and AWR provided scoping/EA comments in June of 2020, we have added a third objector, Yellowstone to Uintas Connection. This group has not had an opportunity to provide comments to the BDNF on these 2 issues, since they arose after the public comment period was closed.

4. Relief Requested.

Until the BDNF has a valid BiOp from the FWS on management of lynx across the entire BDNF, and not just "lynx habitat" identified in the Northern Rockies Lynx Management Direction, and until the BDNF completes the NEPA requirements in regards to the remapping of lynx habitat on the BDNF, any projects that may affect lynx on the BDNF cannot go forward.

In addition, this project should not go forward due to the multiple violations that will be triggered of both the NEPA, the NFMA, and the APA. Examples include violation the Roadless Area Conservation Rule. The slashing/burning of woodland/shrubland habitats in 2 impacted IRAs represents a type conversion from woodland to grasslands, which has a purpose to alter rather than restore natural conditions in these IRAs. In addition, the proposed slashing/burning program in 2 affected IRAs will impact at least 10 bird species identified as Montana Species of Concern, which means the proposals will reduce, not increase, diversity. In the 2020 BA completed

for lynx management on the BDNF, the agency notes that conifer removal will be part of a greatly-increased fuels reduction program on the Forest, demonstrating that treatment in IRAs is for fuels reduction, not ecosystem restoration.

The BDNF has never evaluated the direct, indirect or cumulative impacts of conifer/sagebrush control programs on wildlife, including within the RFP FEIS, for

the portion of these treatments that would occur on the RFP objective of 74,000 acres of treatments in riparian, sagebrush and grasslands habitats. At the same time, the agency is planning to greatly expand conifer removal treatments, as these would be included in the expected expansion of fuels reduction treatments to 150,000-200,000 acres by 2036 (USDA 2020, pages 18, 39-40).

The agency does not have a management indicator species for any Montana Species of Concern for woodland/shrubland habitats, including the Greater Sage[shy] Grouse (hereafter "sage grouse"). So the environmental impacts of the Revised Forest Plan (RFP) target to slash/burn 74,000 acres of this wildlife habitat across the BDNF have never been evaluated as per the NEPA. Currently, the agency claims they are monitoring this program by measuring the acres of sagebrush that are being treated. Acres of sagebrush habitat treated is not a proxy for wildlife effects, in violation of the National Forest Management Act (NFMA). Claims that this sagebrush burning program is increasing sage grouse populations in the EWP EA were not substantiated with any detailed analysis, because such monitoring information has not been gathered since implementation of the RFP.

The agency will also violate the Migratory Bird Treaty Act, and the Bald and Golden Eagle Protection Act with this project. There was no conservation strategy identified for neotropical migratory birds or the golden eagle in the proposed slashing/burning treatments in the EPW.

The agency has dismissed the concerns of publics as "noncontroversial," without providing any rationale as to why public concerns about management of vulnerable species of wildlife on public lands are not relevant to this project. As a part of this dismissal of public concerns, the agency concluded that only one action alternative was required, which was the action initially defined in the draft EA. The agency also falsely claims that an EIS is not required because there will be no significant cumulative impacts from this project in the EPW, including actions planned by the BLM and past actions completed by the FS. An analysis of all past

actions that have removed important habitat for wildlife need to be evaluated for this landscape.

The agency has also failed to address public concerns about agency management of noxious weeds and invasive annuals. The EPW NEPA analysis does not include any inventory of these plants in proposed treatment areas. So the public concern about increases of these plant species due to the proposed action were never addressed.

5. Violations of laws and/or administrative direction.

a. The agency is violating the Roadless Area Conservation Rule.
The agency has acknowledged in the 2020 BA for management of lynx on the BDNF that conifer removal is a fuels management activity. The agency has provided no science indicating that eliminating trees in a forested habitat type represents ecological restoration, as would occur in limber pine/juniper wooded shrublands in the EPW project. The historical range of variation {{HRV) for landscapes in the EPW were never defined in the EA, so the agency did not actually demonstrate this landscape requires restoration of the HRV. The agency also failed to demonstrate that the treatments in IRAs will increase diversity, as

10 bird species identified as Montana Species of Concern will be reduced due to habitat loss. The claim that these limber pine/juniper wooded shrublands are fire dependent and have missed fire cycles is never verified with any data. This conflicts with reports in Pfister et al. (1977) that limber pine habitat types have demonstrated a low frequency of fire. Somershoe et al. (2020) noted that the fire cycles in woodland habitats remains to be clearly defined. Also, given that both limber pine and juniper trees can live to over 1,000 years, they clearly are not fire dependent species. Also, the massive disturbances and visual impacts of the proposed treatments conflict with the function of IRAs to provide unmanaged,

undisturbed landscapes for both wildlife and humans. There will apparently be massive motorized use in these roadless areas to complete the burning. The creation of tree stumps up to 12 inches dbh demonstrates active management to the public. The creation of fire lines that may be 100 feet in width will remain on the landscape for years. And the burning piles of trees will also detract from a natural appearance. All of these disturbances and visual impairment of these IRAs are a direct violation of the required management of roadless areas. Also, the

agency claims that cutting trees can be an exception in IRAs. Since the purpose of cutting trees is a purpose of the project, this is a direct violation of management of IRAs.

b. The agency has not obtained a valid BiOp from the FWS in regards to lynx management on the Forest.

Currently the BDND lacks a valid BiOp from the FWS for management of lynx habitat on the forest, since only mapped lynx habitat, instead of all habitat that lynx may use on the Forest, was included in the BA and BiOp. Until this requirement is obtained, the agency is prohibited from altering lynx habitat. This requirement is related to the EPW project because the limber pine/juniper woodlands and wooded shrublands are documented to provide important alternate food resources for lynx at some times. As was noted in Ruediger et al.

{{2000), more than 30 lynx were harvested in or immediately adjacent to shrub[shy] steppe habitats during a relatively brief interval of jackrabbit population highs. Burning sagebrush is known to reduce jackrabbit populations {{Knick and Dyer 1997).

The agency also needs to complete the public involvement requirements of the NEPA by completing this involvement for the remapping that has occurred on the BDNF for lynx habitat.

c. The BDNF is violating the APA and NEPA by identifying conifer trees in ecotones as undesirable vegetation.

The RFP glossary at 287 defines encroachment of conifers as undesirable vegetation. The RFP and FEIS never define why limber pine/juniper trees in ecotones are undesirable plants that need to be removed. Given this is a massive objective of the RFP, the failure of the agency to explain to the public why this intervention is needed for ecosystem and wildlife management is a violation of the APA as well as the NEPA. The NEPA requires that high quality information be provided to the public in regards to agency management activities on public lands.

d. The BDNF is violating the NFMA by failing to identify and monitor a management indicator or focal species

for limber pine/juniper woodlands, even though massive treatments are planned in these ecotones; an expansion of planned conifer treatments was never identified in regards to assessing cumulative effects of the EPW project, in violation of the NEPA.

In spite of the RFP identification of up to 74,000 acres of ecotone areas on the BDNF that require management, the agency did not identify a single management indicator species, or focal species, that would be monitored to identify how management actions on these 74,000 acres would impact wildlife. This includes wildlife associated not just with woodlands and savannas, but wildlife also associated with sagebrush habitats. The RFP does not ever identify how many acres of sagebrush habitat will be burned in these 74,000 acres targeted for treatment. As was noted in the Johnson Declaration, there are 4 bird species on the BDNF associated with sagebrush that are Montana Species of Concern. There is also the mammal, the pygmy rabbit, associated with sagebrush. Yet none of these species are indicator species for sagebrush habitats that are being monitored. The current monitoring of sagebrush burning on the BDNF is keeping a

tally of how much sagebrush habitat is being impacted, and to what degree. The acres of sagebrush habitat manipulated is not a valid proxy for how wildlife species are being impacted.

The EPW EA and draft DN did not disclose that the BDNF intends to greatly expand conifer removal treatments as part of the forest's fuels reduction program. This expansion would treat up to 150,000-200,000 acres of habitat on the BDNF by 2036. The acreage that would include limber pine/juniper woodlands is not known, but could be many thousands of acres in addition to the RFP objection of up to 74,000 acres of treatment.

e. The agency is violating the NEPA by claiming that there is robust science that supports burning sagebrush to benefit wildlife, including the sage grouse.

In Response to Comments in the draft DN at 36, the FS states that there is overwhelming scientific evidence that supports burning sagebrush and its benefits to the ecosystem. There is clearly strong, clear evidence that scientists involved in management of sage grouse and sagebrush habitats do not support burning of this habitat. This information was not provided in the EPW EA. For example, the agency did not provide the 2015 letter that 11 sage grouse experts and/or sagebrush experts that asked that Secretary Jewell and Secretary Vilsack stop any sagebrush burning programs in breeding and wintering habitat of sage grouse (Baker et al. 2015). The article by sage grouse expert Dr. John Connelly, published in 2013, also was never cited in the EPW EA. Thus implications that burning of sagebrush is supported by scientists is clearly false, in violation of the NEPA.

f. The agency is violating the NEPA by failing to evaluate cumulative effects of conifer woodland/shrubland habitats for the EPW and the BDNF, and by a failure to define impacts to the public; the agency is also violating the NFMA by failing to monitor management actions on resources, that would include wildlife, and to maintain a diversity of wildlife.

There is no analysis as to how the combined acreage of planned conifer removal on both FS and BLM lands will affect wildlife. This includes 901 acres on FS lands, and 4,204 acres on BLM lands for a total treatment of limber pine/juniper/sagebrush habitats of 5,105 acres. The FS has already treated another 962 acres in the EPW (Response to Comments at 35). The total acres of limber pine/juniper/sagebrush control programs on the BOND were also not identified. This includes at least 4,563 acres (USDA 2020). This agency document notes that the BDNF intends to treat 30,000 acres of limber pine/juniper/sagebrush areas by 2036; this would achieve 41% the RFP objective of treating these habitats. As was noted previously, the RFP FEIS does not evaluate the impact of these treatments on wildlife, including at least 10 bird species that are identified as Montana Species of Concern (Johnson Declaration).

In addition, the BDNF is planning to increase the level of these conifer removal projects via fuels treatments (USDA 2020), by up to lSOj-000-200,000 acres by 2036. The amount of habitat that will be removed for wildlife associated with sagebrush and wooded shrublands will clearly be massive. This impact is being dismissed by the agency by claiming, as per the EPW BE, that wildlife will either not be impacted by removal of limber pine/juniper woodlands and wooded shrublands or savannas, or that they will actually benefit from these actions. Thus the BDNF is implementing a massive treatment program without ever providing accurate information to the public about its impacts.

g. The agency is violating the Bald and Golden Eagle Protection Act.

There are at least 6 known golden eagle territories in the EPW as per the Project BE. The BDNF has no conservation strategy for this golden eagle on the forest, including in the EPW. In order to dismiss such management, the agency determined that this Montana Species of Concern will not be impacted by the removal of its habitat. Since this raptor feeds on jackrabbits, and jackrabbits will decline due to sagebrush removal, the EPW project will have a direct adverse impact on this eagle, in violation of the associated protection act.

h. The agency is violating the Migratory Bird Treaty Act.

At a minimum, the Johnson Declaration identified 10 bird species that are Montana Species of Concern that will be adversely impacted by the proposed removal of limber pine/juniper wooded shrublands and savannas in the EPW. There will also be a host of other birds that will bed adversely impacted by the removal of juniper trees in this landscape, due to the loss of juniper berries essential as forage during fall and spring migrations. Junipers also provide both hiding and thermal cover to birds. Rosenberg et al. (2019) noted that North American landbirds have declined in population by roughly 3 billion birds since the mid-1970s. So the EPW proposed degradation of songbird habitat is an unnecessary, direct adverse impact on neotropical migratory birds, in violation of the MBTA. In addition, the BDNF did not evaluate how this large suite of birds will be impacted by the project, is as required by the MBTA. There were not even any inventories of birds in the proposed treatment areas, information that would have been used to plan and mitigate impacts. This makes it clear that no actual mitigation for birds is even planned for this project, including during the spring

nesting season for some birds. The nesting season of birds that may occur in these treatment areas was not even addressed, even though these nesting activities may overlap with the proposed spring burning on over 5,000 acres. The MBTA MOU requires that the FS obtain a "take" permit for any killing of birds that may occur during projects. This MOU is being violated because the FS has not estimated the number or species of birds that may be killed during prescribed burning.

I. The FS violated the NEPA by determining that public comments did not identify controversial issues that required development of an EIS, or that public issues did not warrant development of additional alternatives.

Even though NEC and AWR, along with at least one other environmental group, raised concerns about the burning impacts not only in IRAs, but on wildlife as

well, the BDNF determined that no additional alternatives were required. Thus the agency violating the NEPA by failing to consider public comments for the EPW project. In addition, the agency made a determination that public issues regarding the burning of wildlife habitat and burning within IRAs did not rise to the level of being controversial. Why this was the case was never actually identified. We believe that at a minimum, because the burning of highly-valuable wildlife habitat within IRAs is a controversial activity, as well as a violation of management direction for IRAs, that the agency was required to complete an EIS.