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Organization:

Title:

Comments: Dear Mr. Steele and interested parties:

Thank you for the opportunity to submit comments and learn more about the Holland Lake Lodge Expansion Project. I am writing to oppose this project as described in POWDR's Master Development Plan (MDP).

I'm a third generation Montanan born and raised in Missoula and keeping our wild places wild runs deep in our heritage. My husband and I are practicing professionals in Missoula. We're both avid recreationalists, and frequently engage in self-powered backcountry skiing, mountain biking, hiking, and boating in the Swan Valley. I'm also a property owner in the Seeley Lake area (property that's been in my family since the 80s and remains one of the few untouched plots in the area). Admittedly, it's been personally difficult to confront our expansive population growth and subsequent land degradation over the course of my lifetime.

With regard to this project: I echo the sentiments of so many previous commenters. I acknowledge there may be a need to upgrade existing facilities to maintain commercial success, but if it must be done, I believe it should be done within the existing footprint, i.e. the previously permitted 10.3 acres, not the proposed 19.38 acres, and should come only after necessary legal reviews have taken place. Further, the right of a commercial venture to make a profit off of public lands is far from absolute. There are many available private pieces of property in the area that may be more suitable for a resort of this magnitude. The existing permit is non-transferrable and the recent transfer of ownership (at least control of the business based on a facts and circumstances analysis) presents an opportunity to re-examine whether ANY commercial use is suitable at Holland lake given the increasing pressures of climate change.

I am concerned with the increased extent and intensity of human use as proposed in the MDP. The expanded human footprint extends beyond the proposed permitted area, increasing pressure on the ecosystem, keystone wildlife, and infrastructure in the greater Swan area at a substantial cost to MT residents. At minimum, the burden of increased pressure on our roads, and other infrastructure should come at the cost of the permit holder. I am concerned about the presence of floating docks outlined in the MDP for both wildlife, and because they create the appearance of a private beach, and the exclusion of public recreationalists. The shoreline up to the high water mark belongs to everyone. I have concerns with the extent of water use and the size of the dedicated wastewater area in consideration of the impacts on wildlife. Finally, I am concerned because POWDR's proposed price of accommodation suggests and inevitable gentrification of the area at the expense of long-time-residents. I'm concerned based on these plans and POWDER's comments at the recent public meeting that they lack an awareness of Montana culture and values. I question whether this is a good partnership for our public lands and whether this project serves the public good.

I have been told that aspects of this project have proceeded under the radar of public knowledge, including what I've been told is a significant housing trailer parked in the area that is lacking a permit, approval for two wells, and a recent clearcut that appears related. If these allegations are true, I am disappointed in the government's lack of transparency.

The extent of the proposed expansion far exceeds the scope of what was contemplated under the original permit and subsequent categorical exclusion under NEPA. Further, even if the agency determines that a categorical exclusion does apply, it does not escape its required diligence under the Endangered Species Act.

The ESA is often cited as the "pitbull" of environmental policies, because there are no exceptions for unauthorized "takes", even for projects with the best of intentions. The primary objective of the ESA is to "provide

a means to conserve the ecosystems upon which endangered species and threatened species depend." One of the primary purposes of the ESA, is the listing of endangered and threatened species. The power to do so is divested in the Secretary of the Interior who has delegated it to the U.S. Fish Wildlife Service ("FWS") for terrestrial species and freshwater fish. An "endangered species" is one that is in danger of extinction throughout all or a significant portion of its range. A "threatened species" is one that is likely to become endangered within the foreseeable future. At the time of the listing, FWS is to designate the critical habitat of the species and implement a plan to mitigate future risk and to aid in recovery of the species.

Section 9 of the ESA prohibits the taking of any listed species by "any person." Thus, the "take" prohibition applies to federal and state agencies, organizations, and individuals. The ESA defines "take" as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." FWS has defined harm to include "significant habitat modification or degradation which actually kills or injures wildlife by impairing essential behavioral patterns, including breeding, feeding, or sheltering." The Supreme Court approved of this language in the landmark case *Babbitt v. Sweet Home Chapter of Communities for a Greater Oregon*.

Section 7 prevents any federal agency from taking any action that could jeopardize a listed species or a critical habitat and to confer with FWS before taking any such action. In response, the agency responsible for listing the species must issue a formal biological opinion determining whether the action is likely to jeopardize the species or adversely modify critical habitat including available alternatives. If no available alternative exists to prevent jeopardy to the species or its critical habitat, the action must halt. If the agency determines "no jeopardy" to the species exists, but an incidental "take" of the species may occur while carrying out an otherwise lawful activity not for the purpose to harm, the report must include an incidental take provision. This provision determines the extent to which incidental takes of protected species can be tolerated by the action and must propose any reasonable and prudent mitigation measures.

CE determination through NEPA does not exempt any project from sufficient environmental analysis to determine the likely presence and potential impacts of the project on listed species, unless a programmatic determination to that effect has been made at the local level with the of the FWS. A potential impact on species or habitat protected by the ESA does not automatically require elevation of the NEPA documentation (CE, EA, EIS). This depends on the importance of the resources and the scope of the impacts.

The minimal biological evaluation (BE) under Section 7 for any Federal-aid project not addressed programmatically, is a request to the Services for information on the presence of listed or proposed species or critical habitat in the project vicinity. If the Services respond that protected species or habitat are known not to occur in the action area, the environmental analysis with respect to the ESA is complete and the FHWA concurs in writing with a no effect determination by the State DOT. The determination of no effect should be included in the NEPA documentation, including CEs. A "likely to effect determination" is appropriate when the action area of the proposed project includes areas known to be inhabited, or known to be potentially inhabited, by one or more listed species, or the action area includes designated critical habitat.

This project increases the risk for Threatened species. Holland Lake and Creek is designated as critical habitat for bull trout, and the surrounding lands are designated as critical habitat for lynx, and grizzly bears are very active in the area. Each of these species is listed as Threatened under the ESA. The scope of impact contemplated in MDP section 7 is simply a material misrepresentation of fact. I personally observed a Grizzly sow around the lodge just last fall. One thing is obvious: expansion of user days and season will result in erosion of critical habitat and almost certainly an increase in human/wildlife conflict.

I urge serious reconsideration of this project and formal legal review before any further action is taken. The citizen suit provision under 16 U.S.C. § 1540(g) leaves both POWDR and the Forrest Service vulnerable to litigation and likely injunctive relief for the plaintiffs.

Thank you for your time and consideration,

Brielle Lande