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First name: Tom

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Organization:

Title:

Comments: Attached are my comments for the supplemental EA for the Ripley project. The Forest did a good job and it needs to be implemented.

Dear Chad:

On behalf of the American Forest Resource Council (AFRC) and its members, thank you for the opportunity to provide comments on the Ripely Project Supplemental Environmental Analysis and FONSI.

AFRC is a regional trade association whose purpose is to advocate for sustained timber yield harvests on public timberlands throughout the West to enhance forest health and resistance to fire, insects, and disease. We do this by promoting active management to attain productive public forests, protect adjoining private forests, and assure community stability. We work to improve federal and state laws, regulations, policies, and decisions regarding access to and management of public forest lands and protection of all forest lands. Many of our members have their operations in communities within and adjacent to the Kootenai National Forest and management on these lands ultimately dictates not only the viability of their businesses, but also the economic health of the communities themselves.

The Ripley project area is located east of Libby, Montana and Highway 2 and south of the Kootenai River. The project area is about 29,180 acres and is located on the Libby Ranger District of the Kootenai National Forest. Approximately 7,680 acres are privately owned, and 2,690 acres are managed by other federal or state agencies; the remaining 18,810 acres are on National Forest System land. Due to the project area's proximity to town, the area experiences regular recreational use including both motorized and non-motorized activities.

For background, The purpose of the Ripley Project Supplemental Environmental Assessment (SEA) is to respond to analysis deficiencies identified by the U.S. District Court Order in Case 9:21-cv-21-0105-M-DLC, (Doc. 80, 06/26/2023). The court ruled in favor of the Plaintiffs on two of the five claims brought before the Court. Those two claims are as follows:

Claim 4: Plaintiff is entitled to summary judgment on its claim that the Forest Service's decision not to prepare an EIS violated NEPA and the APA. The order states: "the court agrees with Defendants and Intervenor-Defendants that this case falls into the "incomplete administrative record" category, and thus it is appropriate for this Court to remand without the instruction to prepare an EIS and instead allow the agencies to follow their ordinary processes to determine whether an EIS is required".

Claim 5: Plaintiff is entitled to summary judgment on its ESA claim related to the lynx. This supplemental EA remedies those two deficiencies. No management action authorized in the 2021 Decision Notice is changed from the original decision.

AFRC has been very involved in the Ripley Project by submitting a scoping letter on August 22, 2019, and providing an Objection letter of Support on May 24, 2020. On September 26, 2023, AFRC commented on the Kootenai Forest Plan Amendment for Bears Outside the Recovery Zone Project (BORZ Amendment). On October 27, 2023, AFRC filed a letter of support for the Kootenai Forest Plan Amendment for Bears Outside of Recovery Zone is in the Objection period.

Project History

The Forest Service prepared the updated Ripley Environmental Assessment (EA) and Finding of no Significant Impact (FONSI) in April 2021. The proposed action was modified in the April 2021 EA due to public comments and further discussions in the interdisciplinary team meetings.

Actions After Court Hearing

Subsequent to the Court Order, grizzly bear monitoring data reviews identified that some watersheds within the Ripley Project area now met the criteria to be designated as BORZ. The forest determined to amend the forest plan and on September 19, 2022, the KNF initiated consultation to amend its 2015 Land Management Plan specifically to expand the areas designated as BORZ.

Consultation to amend the plan was completed November 28, 2023 when the Kootenai National Forest received a Biological Opinion (BO) on the effects of amending the forest plan to include additional areas designated as Bears Outside Recovery Zones (BORZ). The BO concluded that the effects of implementing the forest plan (as amended) on grizzly bears are not likely to jeopardize the continued existence of the listed entity of grizzly bears.

The BO further states "Based on the best available scientific information reviewed in this consultation, such adverse effects will not negatively impact the recovery of the NCDE or CYE grizzly bear populations, nor the listed entity of grizzly bears as a whole. Further, we expect the forest plan direction will result in conditions that support continued grizzly bear use of the action area, especially in the NCDE recovery zone, Salish DCA, the CYE recovery zone, BORZ, as well as use of areas outside of these designations. Areas further removed from the aforementioned are expected to continue to be used for dispersal or exploratory movements and potentially some home range establishment at some point in the future, albeit at densities lower than those in the recovery zones. Thus, it is our opinion that the continued implementation of the forest plan would not appreciably reduce the likelihood of both the survival and recovery of the listed entity of grizzly bears as a whole."

Fisher Borz Added

The Fisher BORZ was created in 2022 based on repeated bear records in the watersheds south and east of Libby. Per Allen (2011), delineation of any areas as bears outside recovery zone (BORZ) would be generally based on three or more credible observations within the last 15 years in 6th order watershed Hydrologic Unit Codes (HUCs). Adjacent HUCs with enough grizzly bear use to be considered recurring use areas were combined to create contiguous areas of recurring use, known as BORZ (USFS 2023).

Supplemental BA and BO prepared

Based on the development and expansion of BORZ on the Kootenai, a supplemental Biological Assessment was prepared by the Forest for the Ripley project to address the court's opinion, in the supplemental administrative record. Potential effects of the proposed federal action were analyzed for all threatened, endangered, and proposed species known or suspected to occur in or near the area and for Canada lynx critical habitat.

A biological opinion was issued December 29, 2025, and an errata sheet was issued on January 21, 2026, completing consultation. This opinion supersedes the Fish Wildlife Service's (FWS) previous opinion for effects of the Ripley Project issued on May 13, 2021. This is included in the supplemental administrative record.

Grizzly Bear Findings

In that BO the FWS states: The FWS reviewed the biological assessment regarding the environmental baseline for the action area, the effects of the action, and the cumulative effects within the action area; the 2023 programmatic biological opinion on the Forest Plan; the information we relied upon to develop the 2023 programmatic biological opinion; and information in our files. After our review of those documents, the current status of grizzly bears, the environmental baseline, the effects of the action, and the cumulative effects, it is the Service's biological opinion that the Ripley Project is not likely to jeopardize the continued existence of grizzly bears.

Canada Lynx Finding

In the BO the FWS states: The Ripley Project is located outside lynx analysis units, mapped Canada lynx habitat, designated Canada lynx critical habitat, and the Western Lynx Biology Team management tier polygons. The area is not identified as an area that is important to Canada lynx conservation and only transient individual lynx would potentially use the area. Considering the existing condition, all potential effects of the authorized actions, and cumulative effects, it is unlikely that there would be adverse effects to Canada lynx.

Finding No Significant Impact EIS Not Necessary

The official responsible is required to evaluate the effects of the project relative to the evaluation of significance.

The mere presence of an adverse effect does not equate to the potential of a significant impact as a determination needs to be made that considers both the context and the intensity of an impact.

After considering the environmental effects described in the EA, supplemental EA, and specialist reports, I have determined the action will not have significant effects on the quality of the human environment considering the context and intensity of impacts. Thus, an environmental impact statement will not be prepared.

AFRC supports the Forests' actions that have transpired since the adverse court ruling on June 6, 2023. The Forest has successfully expanded the BORZ area on the Forest by seeking public opinion and using the best available science. Further the Forest did a good job of preparing a Supplemental Biological Assessment for several listed species, and the FWS issued a Biological Opinion stating that No Significant Impacts will occur if the Ripley project is implemented.

Therefore, AFRC believes the project should be quickly implemented to reduce the hazardous fuels in the Wildland Urban Interface and to improve Forest health.

Thank you for taking our comments on the Ripely Project Supplemental Environmental Analysis and FONSI. We look forward to its expedited implementation.

Tom Partin

AFRC Consultant