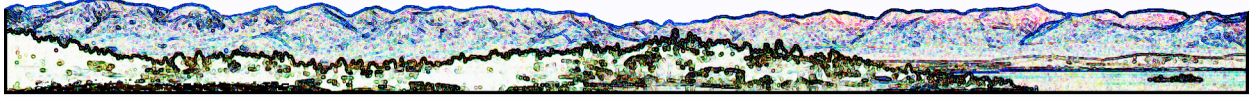


# Swan View Coalition *Nature and Human Nature on the Same Path*



3165 Foothill Road, Kalispell, MT 59901

swanview.org & swanrange.org

ph/fax 406-755-1379

September 8, 2016

Flathead National Forest  
Attention: Forest Plan Revision  
650 Wolfpack Way  
Kalispell, MT 59901

Re: NCDE Grizzly Bear Recovery and Habitat-Based Recovery Criteria  
Submitted via <https://cara.ecosystem-management.org/Public/CommentInput?Project=46286>

Dear Folks;

In places too numerous to mention, the three volumes of DEIS claim that 1993 Grizzly Bear Recovery Plan parameters were met in the NCDE in 2011 and that the grizzly population is recovered. Such statements are baseless because the Recovery Plan was ruled inadequate by the U.S. District Court for the District of Columbia on September 29, 1995, largely because it was over-reliant on population recovery criteria and lacked "habitat-based recovery criteria" (HBRC)\*:

The FWS has not explained how minimum bear population and grizzly distribution goals consider how much habitat and of what quality is necessary for recovery or how the answers to these questions can be derived from the [population criteria] . . . The promise of habitat based recovery criteria sometime in the future simply is not good enough. The purpose of the habitat recovery criteria is to measure the effect of habitat quality and quantity on grizzly bear recovery . . . Such monitoring is not possible if there is no scale against which to gauge the status of habitat. Defendants have not met their burden to develop objective, measurable criteria by which to assess present or threatened destruction, modification or curtailment of the grizzly bear's habitat or range."

The Recovery Plan has not been remedied to include HBRC, so recovery has yet to be measured against the required HBRC. Moreover, HBRC remain promised for some time in the future, as was already faulted by the Court. We ask that all references in the DEISs to the effect that the NCDE population has met all recovery criteria or parameters be stricken from the DEISs and FEISs because they are baseless and not measured against HBRC as required by the Court.

We have attached to this letter our July 7, 2016, testimony presented at FWS's HBRC "workshop" in Missoula. This letter details the numerous ways in which the action alternatives fail to follow through on habitat-securing programs on the Flathead

National Forest and would not maintain habitat security levels at 2011 levels as promised in the Draft NCDE Conservation Strategy and the DEISs.

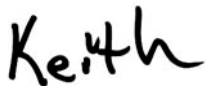
While the attached letter largely contends with the Flathead, we find that the same and similar shortcomings apply to the various alternatives described in the Volume 3 DEIS for the other four National Forests in the NCDE. We ask that the attached July 7 letter be read in whole as a part of this letter.

We will deliver or mail to the Flathead Forest Supervisor' Office by October 3 a CD or DVD containing all of the attachments listed in our July 7 letter. In the meantime, or for anyone not able to access the CD/DVD, each of the listed attachments can be located on our web site at:

[http://www.swanview.org/articles/newsroom/swan\\_view\\_testifies\\_at\\_grizzly\\_bear\\_habitat\\_workshop/228](http://www.swanview.org/articles/newsroom/swan_view_testifies_at_grizzly_bear_habitat_workshop/228)

\*The Court opinion referenced at the outset of this letter, *Fund for Animals et al. v. Babbit and National Audubon Society et al. v. Babbit - 903 F.Supp. 96 (1995)*, is included in full with Attachment #1 to our July 7 letter, via the above link.

Sincerely,

A handwritten signature in black ink that reads "Keith". The letters are cursive and slightly slanted to the right.

Keith J. Hammer  
Chair

Attachment: "Oral and Written Comments for July 7, 2016, HBRC Workshop" by Swan View Coalition and on behalf of others.

July 7, 2016

To: Wayne Kasworm  
Acting Grizzly Bear Recovery Coordinator - USFWS  
University Hall, Room 309  
Missoula, MT 59812

### **Oral and Written Comments Submitted for July 7, 2016, HBRC Workshop**

My name is Keith Hammer. I am Chair of Swan View Coalition. I speak today on behalf of Swan View Coalition and the 15 groups and individuals listed at the end of this statement.

Unfortunately, Fish and Wildlife Service is lying to justify de-listing the grizzly bear in the NCDE. While the Service claims it will maintain bear habitat security levels that existed in 2011, it is instead lowering the goal posts on what is considered secure bear habitat.

Currently, grizzly bear Security Core is defined as habitat without any roads or trails open to motorized vehicles or high levels of non-motorized use. What the Service proposes as management standards, however, would allow the following harmful activities in Security Core:

1. The opening of roads to public motorized uses like firewood gathering.
2. Unlimited amounts of non-motorized trails and human activity.
3. Logging projects that reduce Security Core for half a decade.

None of this is currently allowed in Security Core! (See SVC's comments on the Draft Conservation Strategy, which also incorporated comments submitted by NRDC, attached. See also the attached email thread between Keith Hammer and Joe Krueger regarding Flathead National Forest's interpretation of the Draft Conservation Strategy allowing roads to be open in core for firewood cutting.)

Moreover, the Service would excuse logging roads from limits on Total Motorized Route Density even though they have not been decommissioned, have not been

removed from the road system, and are instead being “stored” for future logging - which also makes them more vulnerable to continued use as trails. Currently, a road must “no longer function as a road or trail” to not be counted in Total Motorized Route Density. Not counting all roads and trails allows unlimited impacts to bears and spells disaster in the face of rapidly increasing, high-speed trail running and mountain biking that is resulting in deaths to both people and bears! (See the attached “Roads to Ruin” report, which includes a detailed discussion of TMRD in Appendix A. See also the attached 6/25/16 Facebook post of bear specialist Tim Manley, urging that foot and bike races be run “in places where people live . . . not where bears and lions live,” noting the mauling of a marathon runner in New Mexico that resulted in the death of the black bear sow that was simply defending her cubs, and expressing his concerns over an overnight foot race “along the Swan Divide.” See also the attached 6/30/16, 7/1/16, 7/2/16, and 7/3/16 news articles documenting the intensive search for a bear that killed an off-duty Forest Service law enforcement officer after he struck the bear “at high speed” on his mountain bike, replete with the County Sheriff excusing the biker from not carrying bear spray because he didn’t have time to deploy it anyway, concluding that riding a mountain bike at high speed on a narrow trail with limited visibility is appropriate backcountry behavior. See also the attached 7/18/94 Kate Kendall report to the IGBC on the effects of non-motorized trail use on grizzly bears, concluding: “As more people penetrate into grizzly bear habitat, more bears are killed or removed from the population as the number of bear/human conflicts rises. The correlation between increased visitor use and grizzly bear problems has been documented in many areas.”)

So we ask the Service to quit telling the public it is going to retain 2011 bear habitat security when it is doing just the opposite. The Service is instead throwing the barn doors open for increases in recreation, roads and logging in bear habitat - all to the detriment of bear habitat security. Combine this with the hunting of grizzly bears after de-listing and the NCDE will look nothing like it did in 2011, especially to a bear!

But we want to emphasize we don’t agree with the Service’s proposition that the NCDE population has been recovered since the year 2011. That proposition is based entirely on a 2004 population estimate and an ill-applied population trend. Still absent is the measurement of the ecosystem’s habitat against habitat-based recovery criteria.

The Service claims whatever habitat conditions existed in 2011 is apparently good enough to support a recovered population of bears. That is an anecdote. It is not science.

What is based in scientific research are the dozens of biological opinions the Service has written over the past 20 years. They set standards to provide the habitat security found necessary for bears to persist on the landscape. Those levels of habitat security were far from achieved in 2011 and remain so today.

The Flathead recently released the Draft EIS for its revised Forest Plan. It shows the Flathead is only about half way to accomplishing its Amendment 19 habitat security standards. If you use the standards currently in the NCDE Forest Plans as habitat-based recovery criteria, the NCDE population and ecosystem is far from recovered! Montanans don't celebrate being stranded in Salt Lake City when the airline promised to deliver them to Phoenix - nor should bears! (See DEIS Vol. 1 pages 408-410 and page 423, wherein only 29 of 54 grizzly bear subunits meet all three 19/19/68 standards (54%) and the Forest has decommissioned 711 of the estimated 1229 miles of road necessary to meet Amendment 19 (58%).)

The Interagency Grizzly Bear Committee spent years trying to replace Amendment 19 Security Core, which is protected by permanently closing and decommissioning roads, with Seasonally Secure Areas that moved around as road gates were swung open and shut. An invited peer review by Dr. Bruce McLellan and others, however, favored Amendment 19: "The simplicity of A19 and its ability to permanently secure areas for grizzly bears makes it a powerful tool in the conservation of the grizzly bear in the NCDE . . . we caution against any relaxation of establishing permanently secure areas . . ." (Peer review attached.)

In other research conducted in British Columbia, Dr. McLellan reemphasizes the importance of secure areas free of most human activity, where grizzly bears can utilize essential foods like huckleberries: "[H]igh energy foods growing in undisturbed portions of the study area enabled this bear population to increase in spite of intense industrial development . . . Once this food source declined, the grizzly bear population declined . . . Managers should identify which high-energy foods . . . are important in various ecosystems and try to maintain or enhance these foods while reducing human access into habitats where they are abundant." (Journal of Wildlife Management paper attached, emphasis added.)

We urge the Service to develop such habitat-based recovery criteria for high-energy bear foods in the NCDE and to reduce human access to them. We urge the Service to drop its proposals to instead increase human access by allowing non-compliant uses in Security Core and by allowing unlimited numbers of logging roads and trails to persist on the landscape.

We urge the Service to also clearly distinguish between "habitat-based recovery criteria" and "habitat management standards." Habitat-based recovery criteria need to be set well in advance of any consideration of a grizzly bear population or ecosystem

being deemed “recovered.” The habitat-based recovery criteria then serve as a measure of habitat quality, security and recovery. They also provide an incentive for land managers to meet all their standards in order to achieve recovery.

The Service in this case has the cart before the horse, declaring the NCDE bear population recovered based solely on population numbers. Now, at the 11<sup>th</sup> hour, the Service is trying to pass off weakened management standards as habitat-based recovery criteria. This the Service is obligated to do in order to excuse land managers for having never met the standards found necessary for the bears’ persistence on the landscape!

We were among the many co-plaintiffs who decades ago filed a successful lawsuit against the Grizzly Bear Recovery Plan’s sole reliance on population numbers and its total lack of habitat-based recovery criteria. The Service promised it would hold a workshop like this one in each grizzly bear ecosystem so the public could comment on its draft habitat-based recovery criteria.

We appreciate this workshop and the opportunity to comment. But after almost 20 years the Service still has not provided draft habitat-based recovery criteria for public review in the NCDE. As made clear in our June 8<sup>th</sup> letter (attached) the Draft Grizzly Bear Conservation Strategy does not even contain the phrase “habitat-based recovery criteria” and yet the Service still insists they are “discussed in the draft Conservation Strategy” (attached).

So we make today’s comments under protest. We have had to speak mostly about “habitat management standards” instead. The proposed standards don’t constitute adequate “habitat-based recovery criteria” by which to gage or maintain grizzly bears and their habitat in the NCDE.

So, what could possibly go wrong for grizzly bears in light of what we have just discussed? As we speak, the Flathead National Forest is proposing to rebuild 8 miles of road it previously decommissioned to secure grizzly bear habitat - simply to log some trees burned in a wildfire last summer, even though the area won’t have sizeable commercial timber again for nearly a century! The Flathead intends to rebuild these roads in Security Core during the summer, which is not allowed. The Flathead intends to remedy this by simply amending its Forest Plan to allow it!

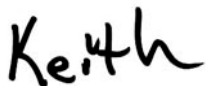
To top that off, the Flathead does not intend to decommission these roads when it is done logging, as required in order to insure they don’t continue to function as roads or trails. It will simply “store” these roads as logging roads, pretend they aren’t roads, and

allow unlimited levels of high-speed trail running and mountain biking on them. (See our discussion of the Trail Creek Fire Salvage Project in Appendix A to the attached Roads to Ruin report. See also the attached risk/benefit analysis for 10 decommissioned roads proposed to be bladed open and rebuilt for the Flathead's Trail Creek Fire Salvage Project. Page 8 indicates 8 of these 10 roads still receive significant human use, especially during hunting season - which does not comply with Amendment 19's requirement that reclaimed/decommissioned roads no longer function as a road or trail. Rather than comply with Amendment 19's Appendix D and follow up with greater re-vegetation of the roads to combat "the expected persistence of people to continue to use a road," the Flathead instead proposes to scrape all remaining vegetation - live, burned, re-sprouting or otherwise - from these roads and return a number of them to the Forest Road System.)

Most alarmingly, this is the kind of nonsense the Service has proposed be allowed in its Draft Conservation Strategy. This is not the Security Core or Total Motorized Route Density defined in 2011 and it won't maintain the habitat security present in 2011. And it certainly won't achieve the security deemed necessary in research-based management standards found in current Forest Plans. We urge the Service to start over and truly engage the public in rethinking what grizzly bear recovery means in terms of habitat.

(We submit today, along with our oral comments, a number of documents previously provided the Service in comments on the draft Conservation Strategy and for a similar habitat-based recovery criteria workshop held for the Yellowstone Ecosystem in 1997. These documents are listed at the end of this statement. We incorporate by reference the comments being submitted today by Brian Peck and by Friends of the Wild Swan.)

Sincerely,



Keith J. Hammer  
Chair

And on behalf of:

Michael Garrity  
Executive Director  
Paul Edwards  
Board Member  
Alliance for the Wild Rockies  
PO Box 505  
Helena, MT 59624

Dr. Brian L. Horejsi  
Conservation Director  
Speak Up for Wildlife Foundation  
110 Matson Place  
Penticton, B.C. V2A 2P3

Denise Boggs  
Executive Director  
Conservation Congress  
PO Box 2076  
Livingston, MT 59047

George Wuerthner  
PO Box 8359  
Bend, OR 97708

Brian Peck  
Independent Wildlife Consultant  
96 Trap Line Road  
Columbia Falls, MT 59912-4801

Arlene Montgomery  
Friends of the Wild Swan  
PO Box 103  
Bigfork, MT 59911

Duane Short  
1151 N. McCue Street A307  
Laramie, WY 82072

Larry Campbell  
Conservation Director  
Friends of the Bitterroot  
PO Box 442  
Hamilton, MT 59840

Barry Rosenberg  
487 Greenwood Road  
Priest Lake, ID 83856-8854

Myke Luurtsema - Council Chair  
Heartwood  
PO Box 1926  
Bloomington, IN 47402

Lori Andresen - President  
Save Our Sky Blue Waters  
PO Box 3661  
Duluth, MN 55803

Steve Kelly - Co-Chair  
Montana Ecosystems Defense Council  
PO Box 4641  
Bozeman, MT 59722

Jeff Juel  
1474 W 11<sup>th</sup> Ave.  
Spokane, WA 99204

Louisa Wilcox  
97 Suce Creek Road  
Livingston, MT 59047

Matthew Koehler - Director  
WildWest Institute  
PO Box 7998  
Missoula, MT 59802

### **List of Attachments**

Documents also available at:

[http://www.swanview.org/articles/newsroom/swan\\_view\\_testifies\\_at\\_grizzly\\_bear\\_habitat\\_workshop/228](http://www.swanview.org/articles/newsroom/swan_view_testifies_at_grizzly_bear_habitat_workshop/228)

1. Swan View Coalition's 7/30/13 comments on the Draft Conservation Strategy
2. NRDC's 7/30/13 comments on the Draft Conservation Strategy
3. Swan View Coalition's 7/31/13 letter incorporating NRDC's comments on the DCS.
4. Email thread between Keith Hammer and Joe Krueger re: firewood cutting in Core.



5. "Roads to Ruin" report by Keith Hammer, May 2016.
6. Facebook post by Tim Manley, 6/25/16, regarding foot and bike races.
7. Daily Inter Lake, 6/30/16, regarding mountain biker killed by bear near West Glacier.
8. Daily Inter Lake, 7/1/16, regarding mountain biker killed by bear near West Glacier.
9. Daily Inter Lake, 7/2/16, regarding mountain biker killed by bear near West Glacier.
10. Flathead Beacon, 7/2/16, regarding mountain biker killed by bear near West Glacier.
11. Kate Kendall, 7/18/94 memorandum to IGBC regarding non-motorized trail impacts.
12. Peer Review of NCDE Motorized Access Management by McLellan, Sanjayan and Silvy.
13. McLellan's Journal of Wildlife Management research article 79(5):749-765; 2015.
14. Trail Creek Fire Salvage Project File Document U-2: Road Risk/Benefit Analysis.
15. Swan View Coalition et al. 6/8/16 letter to Wayne Kasworm.
16. Wayne Kasworm's 6/9/16 letter in response to Swan View Coalition et al.
17. Swan View Coalition's 6/17/97 comments on Yellowstone HBRC.
18. Swan View Coalition's 8/28/99 comments on Yellowstone HBRC.
19. Dr. Lee Metzgar's 6/11/97 comments on Yellowstone HBRC.
20. Dr. Craig Pease's 6/17/97 comments on Yellowstone HBRC.
21. David Mattson's 6/17/97 comments on Yellowstone HBRC.
22. Great Bear Foundation - Charles Jonkel's 6/17/19 comments on Yellowstone HBRC.
23. Dr. Barrie Gilbert's comments on Yellowstone HBRC.
24. Joint 6/16/97 statement by Dr. Barrie Gilbert, Dr. Lance Craighead, Dr. Craig Pease, and Troy Merrill on Yellowstone HBRC.
25. David Mattson's USGS 11/8/97 comments on "Further information on specific issues relating to the grizzly bear recovery plan."
26. "Analyzing Wildlife Movement Corridors in Montana using GIS" by Richard Walker and Lance Craighead. Report Number 11. May 6, 1997.