

Objection Comments on the FEIS for the Flathead National Forest Plan Revision and Four Forest Plan Amendments

USDA Forest Service, Objection Reviewing Officer
Northern Region
26 Fort Missoula Road
Missoula, MT 59804

February 9, 2017

Re: Objection to the Revised Flathead Forest Plan and NCDE Forest Plan Amendments, comments and supporting information submitted electronically as a PDF.

Dear Objection Reviewing Officer;

This is an Objection to the Revised Flathead Forest Plan and an Objection to the NCDE Grizzly Bear Amendments to the Helena-Lewis and Clark, Kootenai, and Lolo Forest Plans. The Responsible Officials are Forest Supervisors Chip Weber, William Avey, Christopher Savage, and Timothy Garcia, respectively.

These objection comments are respectfully submitted on behalf of the Flathead-Lolo-Bitterroot Citizen Task Force, et al. and the groups and individuals listed at the end. Our comments on the DEIS are hereby incorporated by reference as well as the comments of the Swan View Coalition (February, 2018) and Friends of the Wild Swan (February, 2018). We also attach our comments on the U.S. Fish & Wildlife Service Draft Habitat Based Recovery Criteria and the DEIS comments of Friends of the Clearwater and the Humane Society of the United States and incorporate them into these comments.

We cover both documents in a single Objection because the Flathead Revised National Forest Plan and the Four Forest Amendments both derive extensively from the same U.S. Fish & Wildlife Service (USFWS) DRAFT grizzly bear documents (Draft Habitat Based Recovery Criteria [HBRC] and Draft Conservation Strategy).

We represent residents of western Montana and throughout the nation who have used and enjoyed the Flathead National Forest and the Northern Continental Divide region for decades. We have worked there, conducted scientific research, hiked, backpacked, fished, hunted, picked berries, taken photographs, enjoyed the forests, scenery and the watersheds and taken comfort that the Flathead National Forest contains habitat for a host of threatened and endangered species and is a great national resource of rapidly vanishing wildlands, roadless areas and designated Wilderness.

Thus, we have a vested interest in protecting the natural features and conditions of the area, its native fish and wildlife and their habitat, and maintenance of its natural and primitive attributes for our continued use and enjoyment.

Objection

Requirements to Use the Best Available Science

The FEIS does not adequately respond to the Forest Service's legal obligations under the 2012 Planning Rule, primarily through its failure to use the best available science. Rather, the Forest Service has cherry-picked the literature, selecting only those papers that support its views.

The 2012 Planning Rule at 36 CFR § 219.3 states:

Role of science in planning. The responsible official shall use the best available scientific information to inform the planning process required by this subpart. In doing so, the responsible official shall determine what information is the most accurate, reliable, and relevant to the issues being considered. The responsible official shall document how the best available scientific information was used to inform the assessment, the plan decision, and the monitoring program as required in §§ 219.6(a)(3) and 219.14(a)(4). Such documentation must: Identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered. (Emphasis added.)

There is no discussion of why key papers by leading scientists were ignored without any explanation of why they are not considered by the Forest Service to be part of the best available scientific information. Many of our comments, backed by full copies of the scientific reports, were not responded to. For the most part, there is no reference to the scientific papers we provided electronically and few if any of them appear in the Literature Cited for the FEIS. There is no mention of Dr. Lee Metzgar, Dr. David Mattson, Dr. Richard Hutto or many other relevant experts whose papers we provided to the Forest Service.

The FEIS not only fails to respond to our specific comments on the DEIS and the requirements of the 2012 Planning Rule, its adoption of Alternative B-Modified ignores 98% of the 34,000 people who commented on the DEIS supporting Alternative C and insisting that Amendment 19 be retained and its schedule of road closures, decommissioning and reclamation be completed.

We find the Response to Public Comment in Appendix 8 is not responsive. As an example, the FEIS Appendix 8 at 228-229 ignores most of our comments on Wilderness Management without explanation. These comments were prepared by wilderness management experts with Wilderness Watch, the organization co-founded by Bill Worf, former Forest Service National Director of Wilderness.

Appendix 8 needs to be withdrawn and redone to correct these deficiencies and omissions.

2011 Baseline Without Scientific Basis

The FEIS is predicated upon the arbitrary Draft HBRC 2011 baseline for habitat security proposed by the USFWS and thus not in accord with the requirements of the 2012 Planning Rule. Moreover, the revised Plan and Amendments immediately violate this baseline in numerous respects. HBRC has so many exemptions, exceptions and interpretations that it cannot be an effective, enforceable plan that can be subjected to rigorous scientific review and thus is not based upon the best available science.

In perhaps the only change in the FEIS and Plan based on our comments, Appendix 8 at 110 states: "Statements referring to the NCDE grizzly bear population as 'recovered' have been removed."

Therefore, the best that can be said about 2011 conditions on the Flathead National Forest is that they were briefly contemporaneous with an estimated period of population growth and not necessarily responsible for it. Many other variables are involved including abundance of primary food resources and increased sanitation on private lands, combined with road reclamation under Amendment 19. Moreover, much of the estimated distribution and population growth has occurred in other parts of the NCDE such as private lands on the East Front. Thus, 2011 conditions are not synonymous with grizzly bear recovery.

Baseline changes that exceed the 2011 conditions may be made by "conservation partners" (U.S. Forest Service, Tribes, Montana Dept. of State Lands) without consulting with the USFWS. Thus, violations of secure core that depart from 2011 conditions are built into the process.

As McClellan (2017) noted, the allowance for one new campground or expansion every ten years in each Bear Management Unit without consultation is alarming and does not maintain the 2011 baseline. With 23 BMUs, there could be 23 new or expanded campgrounds within 10 years, and after 50 there could be more than 100 new or expanded campgrounds constructed, along with the ancillary infrastructure. This would greatly increase the risks of habituation, management conflict and mortality to grizzly bears. This level of agency discretion is a poor substitute for the ESA Section 7 consultation requirements.

The USFWS Biological Opinion signed off on the Revised Plan in an arbitrary fashion, knowing that without the Amendment 19 status quo as of 2011, the HBRC 2011 baseline would be immediately exceeded. The HBRC clearly states the new standards "are less restrictive than Amendment 19." Thus, the Biological Opinion is legally deficient and not a legal basis for the FEIS.

The Revised Plan allows increases in motorized/mechanized uses well above 2011 levels. Human population growth, infrastructure and visitation have all increased significantly since 2011 and habitat exploitation is on the rise. There was not in 2011, nor as of this date is there, a comprehensive analysis of vegetation and meat food resources for grizzly bears, essential elements of habitat.

Finally, the year 2011 has no special significance to long-term recovery other than that a highly atypical and unsustainable annual growth rate of 3% was estimated based upon a short time period, which was later revised downward to 2.3%. Yet HBRC still cites 3%. Morehouse (2017) noted the data upon which the increase was based was gathered from 2004-2009 (Mace, et al. 2012). What is the population trend from 2010-2017, an even longer time period that is more relevant to what is happening today? We only have projections and extrapolations from data current as of nine years ago.

Road Management and Habitat Security

The Plan and FEIS cite to Boulanger and Stenhouse (2014) as the best available science on grizzly bears and road density based on the claim their study area was very similar to the Flathead National Forest. That is completely and scientifically untrue. The vast amount of their study bears were from north-central Alberta hundreds of miles north of the U.S. border and east of the Continental Divide in dry foothills forests much different than the moist, west of the Continental Divide Flathead National Forest. The grizzly populations in Alberta are also of much lower density (Alberta Government).

Moreover, Boulanger and Stenhouse used an outdated methodology that simply measured linear road density across entire management units, masking the true impacts. Even so, the Plan and FEIS grossly misrepresent the actual recommendations of Boulanger and Stenhouse, who wrote: "We suggest that the 0.75 [km/km²] road density threshold is most applicable to ensure viable grizzly bear populations." This is a much lower density than the Plan standard of 2.4mi/mi² road density for grizzly bears on the Flathead National Forest.

The Flathead National Forest has directly received extensive comments on these issues from Dr. Lee Metzgar, a population ecologist and former director of the University of Montana Wildlife Biology Program (Metzgar 1998) and we provided a full copy of his report in our comments on the DEIS. His findings on total road densities within the non-roadless matrix are based upon the South Fork Grizzly Bear Study on the Flathead National Forest. They align closely with those of Mattson (1993) and Craighead, et al. (1995) and should not exceed $\approx 0.25\text{mi}/\text{mi}^2$ ($.4\text{km}/\text{km}^2$). The BC Auditor General Report (2017) stated scientists found that bear density was lower in areas with road density exceeding $0.6\text{km}/\text{km}^2$ in the Kettle-Granby region, a west of the Continental Divide area that is more similar to the Flathead National Forest. The Plan standard exceeds these best available scientific data by several fold without providing a valid scientific basis.

Ignoring the Metzgar study of Flathead National Forest grizzly bears and instead choosing one from northern Alberta does not represent application of the best available science, as required by the 2012 Planning Rule, NEPA and the ESA.

The FEIS also recommends just 30% of the eligible roadless area for Wilderness, leaving 70% exposed to habitat alterations including timber harvest, new roads and motorized/mechanized trails. Protected roadless areas are known to be far and away the most secure grizzly bear habitat, reported as supporting densities \approx twice (Kendall, et al. 2008) and four times (Lamb 2018) those of roaded areas. The best available scientific information indicates the Forest Plan should have an express standard of zero loss or reduction of roadless habitats on public lands and a prohibition on motorized and mechanized uses within all roadless areas.

The definitions for secure core are inadequate. The 3.8 mi² identified as minimum is far too small, especially when temporary roads and logging are allowed. Mattson (1993) identified micro-scale secure areas for female/cub groups in the roaded matrix as 28.3km² (10.93 mi²). Even when adjusting for smaller average home range size for females in the NCD sub-population compared to Yellowstone, 3.8mi² is far too small, encompassing a fraction of an NCD single female home range (120-160km² and greater (46.3-61.8 mi²). Moreover, secure core should not shift over time but remain a stable refuge females can learn to use and pass on to their offspring.

The calculations for Total Motorized Route Density are not only weaker than Amendment 19, by omitting major paved highways they leave out the most demonstrably lethal roads. For example, Costello, et al. (2016) report that 26% of all mortalities on the South End Unit of the NCD between 2004-2014 were from bears struck on highways. The U.S. Highway 2/Railroad corridor between Glacier National Park and the areas south has long been a high mortality area as are the U.S. 93 and Montana 83 corridors.

There is also no discussion of the impact on core security from non-motorized, large parties > 10. The Plan has a standard that allows parties of up to 15 people and 35 stock. These parties are often armed and with dogs. Their travel and campsites are a disturbance and a mortality risk to grizzly bears. Gunther (1990) found non-motorized stock and foot parties displaced grizzly bears 500m and far greater in a national park setting. These were at use levels far lower than the Plan allows.

Watershed and Fisheries Protection

As we said in our comments on the DEIS, the FEIS should continue managing riparian buffers as per the direction of the Inland Native Fish Conservation Strategy (INFISH), including maintaining the Resource Management Objectives (RMOs) within the Riparian Habitat Conservation Areas (RHCA). However, the Revised Plan is not based on numeric standards for the Primary Constituent Elements of bull trout and cutthroat trout habitat. The buffers should be extended to 300' for perennial streams and wetlands, and 100' for intermittent streams. The standard for project analysis should continue to be the comprehensive watershed effects analysis. In addition to no roadbuilding within the 300' buffer, within 200' of perennial streams and wetlands there should be no vegetative management or controlled burning.

The Revised Plan eliminates the INFISH Riparian Management Objectives and does not replace them with any measurable habitat objectives or standards. Instead the Flathead will monitor to determine trends in habitat condition. However, by the time a trend is detected or apparent, degradation has already occurred.

The Flathead admits that pool frequency, water temperature, large woody debris and width/depth ratio in the current Flathead RMOs are applicable on the Forest. Yet the Plan does not have a standard or objective for those parameters. A flaw in the INFISH RMOs was that there was no standard or objective for sediment, a key habitat element in bull trout spawning streams. In addition, the Primary Constituent Elements (PCEs) that were designated for bull trout critical habitat and correspond to some of the INFISH RMOs have no equivalent standard for monitoring in the Forest Plan. Instead, the Plan relies on narrative habitat objectives that are subjective and cannot be measured.

In our comments on the draft EIS we noted that the PCE's for bull trout critical habitat were not analyzed. The Flathead's response was that they were analyzed in the FEIS section 3.2.4, the Biological Assessment and Biological Opinion. There is no analysis of the PCEs in FEIS section 3.2.4. The BA and BO are not NEPA documents.

The Forest Plan relies on continuing the PACFISH/INFISH Biological Opinion (PIBO) monitoring in lieu of habitat standards and Riparian Management Objectives, but the INFISH BO is replaced by a new BO for the Forest Plan that does not include the PIBO monitoring as a term and condition. So the Flathead could discontinue PIBO monitoring at any time due to funding constraints or any other reason. Furthermore, INFISH is being

replaced with a Northern Region Aquatic and Riparian Conservation Strategy that hasn't been developed.

The Forest Service must develop numeric Riparian Management Objectives for the Flathead based on local conditions and that will be consistent with maintaining or restoring the Primary Constituent Elements for bull trout.

The Flathead Plan Revision Cannot be Based Upon Draft Documents

The Revised Plan may not be based upon draft or nonexistent documents or strategies for aquatic, riparian and grizzly bear conservation.

Despite the claims in Appendix 8 that the Forest Service does not have to wait for completion of the **DRAFT** Conservation Strategy and **DRAFT** HBRC, it's heavy reliance on these drafts does not represent the best available scientific information. To rely on draft documents which are subject to change in light of public comment and recent case law, as the basis for its responsibilities under the Endangered Species Act is insufficient. The FEIS extensively cuts and pastes from the DCS. The Forest Service claims in Appendix 8 that it will simply revisit the issue and amend the Plan if these **DRAFT** documents change. But the changes may not be simple and may well require rewriting the entire grizzly bear portion of the Plan and FEIS and seeking a new Biological Opinion. This is a needless waste of taxpayer funds that can be saved by waiting for them to be completed.

Desired Conditions

The FEIS and supporting documents remain largely predicated on the desirability of mimicking pre-settlement stand conditions, ignoring all the scientific information that does not support its decision, including the papers we provided from a host of respected scientists including Dr. Richard Hutto and Forest Service researchers.

Old Growth Protection & Restoration

Protection of old growth forest is required on the Flathead National Forest. Recruitment of old growth is also required by the USDA Policy Statement of 10/11/89.

However, attempts to recruit old growth through vegetative manipulation are speculative and may defeat the very purpose it purports to serve. Regarding a project on the Flathead National Forest, Hutto, et al. 2014 wrote: "Relative abundances of only a few bird species changed significantly as a result of restoration treatments, and these changes were characterized largely by declines in the abundances of a few species associated with more mesic, dense-forest conditions, and not by increases in the abundances of species associated with more xeric, old-growth reference stand conditions.

Wilderness Direction Recommendations:

Most of our recommended changes to the Wilderness Direction language are neither adopted or discussed in FEIS Appendix at 228-229. These are shown in **bold**. Other comments in *italics*.

Desired Conditions (MA1a-DC)

1. **01** Wilderness areas are managed to ~~provide for~~ **protect** wilderness character as ~~defined~~ **required** by the Wilderness Act and the wilderness areas' enabling legislation. Wilderness character, ~~as described in the Wilderness Act, can be defined through conditions that management will protected include five qualities which are:~~ untrammelled, undeveloped, natural, outstanding opportunities for solitude or a primitive and unconfined type of recreation and other features of value such as ecological, geological, scientific, scenic, or historic. *[Note: the Wilderness Act defines "wilderness," but it does not define wilderness character. The definition the draft plan alludes to is the definition of wilderness from the Act.]* **(This change was adopted).**
2. **02** Natural ecological processes and disturbance (e.g., succession, wildfire, avalanches, insects, and disease) are the primary forces affecting the composition, structure, and pattern of vegetation. Wilderness areas provide opportunities for visitors to experience natural ecological processes and disturbances with limited amount of human influence. **(comment ignored).**
3. **03** ~~Facilities in the Bob Marshall and Great Bear Wilderness areas provide for the management, protection and use of the wilderness. Except as necessary to meet minimum requirements for administration of the wilderness for the purpose of the Wilderness Act, there shall be no structures or installations with Wilderness.~~ **(comment response: "Facilities are allowed in designated wilderness for the protection of the wilderness resource.")** The Plan uses the wrong standard. The requirements of the Wilderness Act prohibit all structures and installations except those that are "necessary to meet minimum requirements" to protect the Wilderness, not what the Forest Service deems should be provided for management of the wilderness resource. The Wilderness Act has a much stricter test. The Desired Condition should state that designated Wilderness will include only those facilities that are necessary to meet minimum requirements to protect the Wilderness.
4. **04** Non-native invasive species are non-existent or in low abundance and do not disrupt ecological functions. **Emphasis will be placed on actions to prevent the introduction on non-native species. (comment ignored).**
5. **05** The current **National Forest System** trails system in the Bob Marshall, Mission Mountains, and Great Bear Wilderness areas on the Forest ~~is~~ are managed to provide for wilderness experience. **(comment ignored).**
6. ~~06 Existing~~ outfitter and guide service opportunities ~~are maintained~~ **may be permitted** in the Bob Marshall Wilderness Complex ~~as determined by identified public need~~ to the extent necessary for activities that are proper for realizing the recreational or other wilderness purposes of the areas. **(This issue was incorrectly worded in the FEIS and the response was simply a re-statement of the existing language.)** Again, the Plan applies the wrong standard. The Wilderness Act generally prohibits all commercial enterprise, but makes an exception for commercial services "to the extent necessary for activities which are proper for realizing the recreational or other wilderness purposes of the areas." The proposed plan calls for continuing the existing levels of use in the Bob and the Missions without any showing that the current levels of use are limited to the "extent necessary." The desired condition should be that commercial services are allowed

only to the extent necessary, not to the level of identified public need, which is a market driven standard, not a wilderness protection standard.

07 Schafer Meadows Airstrip serves as an airplane accessible trailhead **with use levels consistent with that which occurred at the time the Great Bear Wilderness designated (1978). (comment ignored).**

7. **08** The Bob Marshall and Mission Mountains Wilderness areas are Class I Air Quality areas and managed as such; the Great Bear Wilderness area is managed as a Class II area. **(comment ignored).**

Standards (MA1a-STD)

1. **01** Do not authorize group sizes in excess of 15 people, and ~~35~~ **15** head of livestock per party within the Bob Marshall and Great Bear Wilderness areas. *[Note: the current limit of 35 head of stock is simply way too many and allows some users to cause a disproportionate impact on the wilderness resource. It makes a mockery of leave-no-trace or "minimum impact" principles for wilderness stewardship or use. It's long past time the FS rein in excessive pack stock use in the BMWWC]. (The response was simply a restatement of the existing limits and ignores effects of large parties on grizzly bear habitat security).* This standard is scientifically indefensible on several counts. One, large parties are known to impact grizzly bear habitat security and displace bears for long distances; two, large stock parties have negative impacts on water quality; three, large human/stock parties diminish the wilderness experience of other visitors. The maximum size should be reduced to 15. Thirty-five stock is unreasonable and not necessary for use and enjoyment of Wilderness areas.
2. **02** Do not authorize group sizes in excess of eight people and eight head of livestock per party within the Mission Mountains Wilderness. **(comment ignored).**
3. **03** Permanent structures for the administration of the Mission Mountains Wilderness shall not be built. **(comment ignored).**
4. **04** Do not maintain, rehabilitate, restore, or interpret cultural resources within the Mission Mountains Wilderness. **(comment ignored).**

We request clarification as to whether the existing management plan/LAC plan is still in effect or whether it is being replaced by the new Plan.

We also express our disappointment that the Forest Service sees Wilderness as nothing but a recreation area, as evidenced by the Background statement in the plan (p. 88). It says nothing about the many values of Wilderness, except that it provides recreational experiences.

Conclusion

We believe the Flathead Revised Forest Plan, Four Forests Amendments and FEIS are unlawful and thus arbitrary, capricious and an abuse of agency discretion. They must be withdrawn to conform to all legal requirements and the best available scientific information.

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