

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

January 23, 2018

Attn: Docket No. FWS-R6-ES-2017-0057
U.S. Fish and Wildlife Service, MS: BPHC
5257 Leesburg Pike
Falls Church, VA 22041-3803

Re: Comments on Habitat Based Recovery Criteria and Supporting Documents

Dear Fish and Wildlife Service;

FWS has held two public hearings and comment periods on the development of Habitat Based Recovery Criteria for the NCDE Grizzly Bear Ecosystem. We have submitted prior comments during both of those comment periods. By this letter and the enclosed DVD, we submit further comment on the Draft Supplement to the Grizzly Bear Recovery Plan: NCDE HBRC. These comments and documents are submitted on behalf of Swan View Coalition, Friends of the Wild Swan and Brian Peck - along with documents that support all of the comments we have submitted.

The documents included on our DVD are organized into Folders 01 through 15, which we will refer to as Folder 01, etc.. When we name a specific document in a folder, we will use its file name in the reference.

The Premise of the Proposed Habitat Based Recovery Criteria

This letter will comment primarily on the premise upon which the HBRC are based, as set forth on pages 2-3 of the Draft Supplement:

. . . we can establish criteria by assessing what habitat factors in the past were compatible with a stable to increasing grizzly bear population [as of December 31, 2011], then use these habitat conditions as thresholds that if maintained, can help ensure a healthy population . . .

We will use the Flathead National Forest as an example of how these “thresholds” have been inappropriately compromised through both re-definition and implementation, and how they cannot be regarded as adequate regulatory mechanisms that will maintain habitat security conditions that existed in 2011.

Flathead Forest Plan Amendment 19 Limits Roads in Bear Habitat

The HBRC thresholds are based in large part on the habitat security parameters established in Flathead Forest Plan Amendment 19. A19 capped the miles of road that can exist by finding that, in order to lower total road densities, roads must be decommissioned, removed from the road “system,” have all stream-aligned culverts removed, and be revegetated so the road no longer functions as a road or trail, motorized or non-motorized. We raised this issue in our comments on A19 and the Flathead’s Amended A19 EA responded on page 97 by showing that the miles of road estimated to need reclamation would also be removed from the total miles of road in the “system” (decommissioned).

Limits on Roads Removed circa 2011

The Flathead continued to treat roads to be reclaimed as roads to be decommissioned up until about 2011, when it invented the term “impassable” for roads it wished to abandon without necessarily removing culverts, without decommissioning them and without insuring they are no longer used as trails. It then asserted in Kathy Ake’s 2013 contribution to the draft NCDE Conservation Strategy that impassable roads had “been incorporated this way since IGBC motorized access or Flathead NF’s A19 started.”

These roads the Flathead and HBRC claim need no longer count as roads in calculations of Total Motorized Route Density (TMRD). This is in violation of A19. This removes the limit on the miles of road that can exist in grizzly bear habitat and the HBRC similarly propose no cap on the miles of road that can exist. This will not maintain the habitat security conditions that existed in 2011.

An infinite mileage of roads can now exist in bear habitat as allegedly impassable to motor vehicles while continuing to function as non-motorized trails. They can remain devoid of vegetation and have only the first 50 feet of road altered to discourage motorized use, leaving them likely candidates for motorized trespass. (See the supporting documents in Folder 01. These documents and this issue are discussed in great detail in our Roads to Ruin report and its Supplement, which are in Folder 04. They are also discussed in our prior HBRC comments found in Folders 08 and 09).

The Flathead is Already Busy Reconstructing Previously Decommissioned Roads

The Flathead is already busy increasing the miles of road in its road system and in bear habitat, both by renegeing on prior road decommissioning decisions and by reconstructing previously decommissioned roads and then “storing” them as impassable and/or Intermittent Stored Service system roads (ISS). The Bug Creek logging project, for example, proposes to renege on 60 miles of pending road decommissioning and rebuild nearly 17 miles of previously decommissioned roads, stating clearly: “This project proposes to add the roads back on to the road system from decommissioning in the Crane Mountain salvage decision.” Moreover, the Bug Creek proposal calls abhorrently substandard A19 grizzly bear security “abundant” bear

security, apparently in anticipation of the revised Forest Plan and HBRC-style analyses. (See the Bug Creek scoping documents and our comments on them in Folder 03).

The Flathead already reconstructed 3.3 miles of previously decommissioned roads in its Trail Creek Salvage logging project, leaving them in the system as ISS roads and yet not counting them in TMRD even though they are devoid of vegetation and can be used as non-motorized trails and for motorized trespass. (See the Trail Creek Decision Notice and our Objections to it in Folder 11).

The Flathead proposes to reconstruct 7.6 miles of previously decommissioned roads in its Hungry Lion project, then leave them in the system as stored roads not counted in TMRD. It similarly proposes to reconstruct and store 4 miles of previously decommissioned roads in its Taylor Hellroaring project. (See Folders 05 and 10, respectively, for the project NEPA documents and our comments on them in this regard).

The Flathead is Elsewhere Omitting Stored Roads from TMRD

In its Beaver Creek logging project, among others, the Flathead is proposing to lower TMRD by storing roads rather than decommissioning them. We are litigating this issue and our Amended Complaint provides photos and the legal rationale for: a) why stored roads do not secure grizzly bear habitat the way that decommissioning does and b) for why stored roads cannot be omitted from TMRD. Our Amended Complaint also points out that the Forest Service's definition of an ISS road indicates it can receive motorized or non-motorized use. (See the Beaver Creek NEPA documents, our Objection to them, and our Amendment Complaint in Folder 02).

Amendment 19 Limited Non-Motorized Trails

Amendment 19 from the outset limited non-motorized trails. Reclaimed/ decommissioned roads could no longer function as either a motorized or non-motorized trail due to the acknowledged displacement of bears. High-use non-motorized trails disqualify areas from being considered Security Core, due to the acknowledged displacement of bears similar in magnitude to displacement from a motorized road or trail. (See the A19 documents in Folder 01).

Limits on Non-Motorized Trails Removed and Bear Displacement Ignored

The revised Flathead Forest Plan and HBRC redefine Security Core to be Secure Core, wherein high-use non-motorized trails are allowed without disqualifying bear security. The Plan and HBRC do so on the false premise that past displacement from trails and low-traffic roads has apparently resulted in no population-level impacts to the NCDE population, so its OK to ignore such displacement in the future. (See the revised Forest Plan, its FEIS, Biological Assessment, and Biological Opinion in Folder 13).

This ignores the fact that displacement does have very real consequences for bears and bear mortality. As described in the Taylor Hellroaring EA, on page 3-169, contained in Folder 10:

Grizzly bears have been shown to have a negative relationship with human development and activity. High human activity levels may negatively affect grizzly bears by causing displacement from preferred habitats. Grizzly bears are highly dependent upon learned habitat; displacement into unknown territory may lead to sub-marginal nutrition, reduced reproduction, or greater exposure to adult predatory bears or human food sources, which can lead to human-caused mortality (R. D. Mace & J. S. Waller, 1997; USDA Forest Service, 2017a). Roads and their associated traffic are known to lessen the effectiveness and use of adjacent habitat, and expose bears that do travel on or near them to elevated risks from human-caused mortality (Kasworm & Manley, 1990; R. D. Mace & J. S. Waller, 1997; B. N. McLellan & Shackleton, 1989).

The Flathead is Already Allowing the Expansion of Mountain Bike Trails and Human Use of Stored Roads

The Taylor Hellroaring EA proposes 40 more miles of mountain bike trails in an area already riddled with trails and old roads. It also acknowledges the rapid expansion of mountain bike use and that some of the proposed trails will likely increase trail use in existing Security Core to high-use levels that are currently disallowed. (See page 3-175 of the EA and our comments on it in Folder 10. See also our Bikes-Trails-Roads NCDE.pdf in Folder 14 for more discussion on the potential for biker-bear conflicts and mortality. See also in Folder 14 our report and recommendations in light of the death of Brad Treat when he slammed into a grizzly bear while speeding on his mountain bike, as well as the Board of Review report and recommendations in this matter).

The Hungry Lion EA proposes to construct mountain bike trails and include user-created bike trails in bear habitat, 12 miles of it on trail previously removed from the trail system and some of it on old logging roads. (See the Hungry Lion EA and our comments on it in Folder 05).

The Bug Creek project proposes another 15 miles of mountain bike trails in an area devoid of grizzly bear security, and chock full of old roads and illegally constructed mountain bike trails. (See the Bug Creek scoping documents and our comment on them in Folder 03).

The Flathead is Already Allowing Increases in Commercial Recreation Permits

In December 2017, the Flathead issued first-time permits for commercial ski guiding and a snow-cat shuttle service in the area between Essex and the Great Bear Wilderness. This it did while claiming it had the authority to do so “without NEPA, scoping or analysis” in the heart of grizzly bear, wolverine and lynx habitat. We and Flathead staff objected to this and, while the Forest Supervisor has told the Ranger he does in fact have to conduct “NEPA, scoping and analysis,” he has refused to withdraw the

permits. This cavalier attitude and permits like these will not maintain bear security conditions that existed in 2011. (See Folder 07 for documents regarding the permits and objections to them).

The Flathead has Already Proposed to Encourage ATV Use over 2011 Levels

Following the rare issuance of a draft “jeopardy” Biological Opinion, FWS in its final 1988 Opinion permitted the Flathead to allow ATV use of a portion of old logging roads in Krause Basin during July and August, provided the routes would “not be marked on the ground.” The intention was to not have the area be known and used as an ATV destination. According to Forest Planning record #00172, A19 implementation would require that all the ATV trails in Krause Basin be closed to motorized use. (See file 00172_FNFModelingForAlternativeAtoFullyMeet19-19-6820151015.pdf in Folder 13).

Regardless, the Flathead proposed that its revised Forest Plan designate Krause Basin an MA7 Focused Recreation Area, promote it as such, and mark the ATV trails on the ground. This prompted us to file a letter of complaint followed by a 60-day notice of intent to file suit under the ESA in 2015. In response, the Flathead on 4/29/15 agreed to not mark the ATV trails on the ground. Moreover, it asserted: “There is currently no such proposal.” (See these documents in Folder 06).

The revised Forest Plan, however, continues with the same proposal for a Focused Recreation Area with ATV trails marked on the ground, in violation of FWS’s 1988 Biological Opinion and promises made. This will not accomplish the bear security promised under A19, nor will it maintain either the security conditions required in 1988 or the conditions that existed in 2011. (See pages 150-151 of the revised “Flathead Forest Plan.pdf” in Folder 13).

An Attempted Return to the Use of Berms and Gates

In large part, the revised Flathead Forest Plan and HBRC attempt to abandon the concepts and requirements of research-based road reclamation/decommissioning and Security Core in favor of simply rendering roads “impassable” to motor vehicles using perhaps a single culvert removal or minimal obliteration of the first 50’ of road. The return to a reliance on gates, berms and minimal physical closures was once attempted by the Flathead and IGBC NCDE Subcommittee. The attempt was roundly rejected during peer review, as discussed in our July 7, 2016 comments on the HBRC and Conservation Strategy. (See Folder 08). Moreover, A19 and its reliance on robust and permanent road reclamation/decommissioning came about due to abundant reports on the ineffectiveness of gates and berms to reduce motorized and human use of roads. (See Folder 15 for some examples and summaries of these reports).

Summary

In summary, the HBRC and revised Flathead Forest Plan are hardwired to allow human impacts to increase and to increasingly displace/harm bears, without it appearing so:

1) increased miles of road can be built and retained, including in roadless areas should the Roadless Rule be revoked, without any apparent increase in TMRD, 2) unlimited amounts of non-motorized recreation can occur with no apparent reduction in Secure Core due to high-level use of trails, and 3) an unlimited amount of biking, hiking, hunting, and motorized trespass can occur on “stored” roads - use that was not allowed on reclaimed/decommissioned roads removed from the system in order to be deducted from TMRD. None of this will maintain 2011 habitat security conditions.

In addition, the Flathead National Forest has demonstrated that the Forest Service cannot be trusted to implement adequate regulatory mechanisms. It failed miserably to fully implement A19 and now abandons it with over 500 miles of road reclamation still required to reduce incidental take of grizzly bears to “research benchmark levels.” (See “00172_FNFModelingForAlternativeAtoFullyMeet19-19-6820151015.pdf” and “Biological Opinion Flathead Forest Plan 171122.pdf” in Folder 13). It dreamt up and misrepresented the notion of “impassable” roads as an equivalent alternative to “reclaimed” or “decommissioned” roads, failed to propose and adopt this change through a public revision of A19, then failed to remove all stream-aligned culverts from “impassable” roads - in many cases removing the first few culverts and leaving many orphaned without mechanized access to maintain them! (See our 60-day notice of intent to file suit over the Raghorn Road in Folder 12, the Supplement to our Roads to Ruin report in Folder 04, and our 1/3/18 comments on the HBRC in Folder 09).

In other words, the HBRC themselves do not constitute adequate regulatory mechanisms and they are rendered even less adequate in the hands of National Forests like the Flathead.

Sincerely,



Keith J. Hammer
Chair
Also signing for:

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

Brian Peck
Independent Wildlife Consultant
96 Trap Line Road
Columbia Falls, MT 59840

Enclosure: DVD of supporting documents