

BEFORE THE OFFICE OF THE REGIONAL FORESTER  
REGION ONE – USDA FOREST SERVICE  
Objection Reviewing Officer

FRIENDS OF THE WILD SWAN	)	
SWAN VIEW COALITION	)	
BRIAN PECK	)	
	)	
Objectors	)	
	)	
	)	NOTICE OF
	)	OBJECTION
v.	)	PURSUANT TO
	)	36 CFR 218
	)	
CHIP WEBER	)	
FLATHEAD NATIONAL FOREST SUPERVISOR	)	
Responsible Official	)	

OBJECTION DECISION:

Draft Decision Notice and Finding of No Significant Impact (DN) for the Hellroaring Basin Improvement Project November 2019. Chip Weber, Flathead National Forest Supervisor, responsible official.

OBJECTORS:



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Lead Objector  
Program Director  
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For  
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Objector  
Chair  
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For  
Brian Peck  
Objector  
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Consultant  
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January 9, 2020

STANDING:

Friends of the Wild Swan and Swan View Coalition are non-profit conservation organizations focused on protecting water quality and habitat for fish and wildlife on the Flathead National Forest. Members of both organizations and Brian Peck, Independent Wildlife Consultant, recreate in and otherwise visit the Project Area. Friends of the Wild Swan submitted comments on the Environmental Assessment on May 31, 2019. Swan View Coalition submitted comments

on the project that were combined with their Taylor Hellroaring Project comments on 5/20/19. Brian Peck's comments on this project were included in his 5/23/19 comments on Taylor Hellroaring.

• **OBJECTION STATEMENT**

The Forest Service must prepare an Environmental Impact Statement for the Hellroaring Basin Improvement Project.

We raised this issue in our Environmental Assessment comments on the Hellroaring Basin Improvement Project, the first Taylor Hellroaring Environmental Assessment and Objection and the second Taylor Hellroaring Environmental Assessment.

**OBJECTION**

Pursuant to National Environmental Policy Act (NEPA), the Forest Service must prepare an Environmental Impact Statement (EIS) for projects that "may" result in significant impacts. "Significantly" as used in NEPA requires considerations of both context (the setting of the proposed action) and intensity (the severity of the impact).

The Hellroaring Basin project may result in "significant" impacts as defined and understood by NEPA's implementing regulations because this project area includes logging and roads from the Taylor Hellroaring Project. Both projects will occur in lynx critical habitat, MS1 habitat for grizzly bears, and wolverine habitat. The project will also result in high uncertain impacts to listed and sensitive species and critical habitat, involves highly controversial impacts, violates a number of laws, and establishes a dangerous precedent for how lynx critical habitat and MS1 habitat is managed. The Forest Service concedes that the project is likely to adversely affect lynx and lynx critical habitat and grizzly bears. In addition, the Hellroaring Basin project – when added to other federal (Taylor-Hellroaring), state (DNRC logging), and private actions (logging, roads and ski area development) – may have a cumulatively significant impact. The Forest Service's decision, therefore, not to prepare an EIS and the finding of no significant impact (FONSI) violates NEPA and is arbitrary and capricious.

The Flathead claims in its response to comments that they do not need to prepare a single Environmental Impact Statement because they have determined that each project (Hellroaring Basin and Taylor Hellroaring) had a Finding of No Significant Impact. However, 40 C.F.R. §1508.25 lists three distinct types of actions that require a single impact statement:

(1) Connected actions, which means that they are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:

- (i) Automatically trigger other actions which may require environmental impact statements.
- (ii) Cannot or will not proceed unless other actions are taken previously or simultaneously.
- (iii) Are interdependent parts of a larger action and depend on the larger action for their justification.

(2) Cumulative actions, which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement.

(3) Similar actions, which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography.

The Hellroaring Basin and Taylor Hellroaring projects are cumulative actions with significant impacts. Cutting units, roads and bike trails from the Taylor Hellroaring project are in the project area for the Hellroaring Basin project. Both projects have significant impacts for lynx, lynx critical habitat and grizzly bears indicated by the Likely to Adversely Affect determinations. Both projects have common timing or geography.

As indicated in other responses to comments it appears that the Flathead is bowing to Whitefish Mountain Resort's desires by keeping this project separate from Taylor Hellroaring rather than complying with the legal requirements of NEPA.

#### REMEDY

Develop an Environmental Impact Statement.

#### • OBJECTION STATEMENT

The Hellroaring Basin Improvement Project fails to comply with the Forest Plan in violation of the National Forest Management Act.

We raised this issue in our Environmental Assessment comments on the Hellroaring Basin Improvement Project.

#### OBJECTION

The EA does not comply with Forest Plan GA-SM-MA7-Big Mtn-DC-04:

"The portion of the upper Hellroaring watershed below Taylor Creek Road (NFS Road 9790) provides higher levels of grizzly bear habitat security." The project proposes 8 new ski runs and a new chairlift in the Hellroaring Basin that will potentially displace grizzly bears, lynx and wolverine. The proposed action does not comply with providing higher levels of grizzly bear habitat security in this area.

In its response to comment 20 the Flathead deflects the issue of complying with this Desired Condition by saying that the area is not large enough to be secure core so compliance isn't necessary and since the Environmental Assessment disclosed that it will reduce hiding cover and increase maintenance activities and other human uses that is good enough. It then relies on design features to mitigate for reducing the levels of grizzly bear habitat security in the Hellroaring watershed. But apparently they are not adequate since the project is Likely to Adversely Affect grizzly bears.

The Desired Conditions that the Flathead is attempting to promote with this project are for increased recreation: "to improve the skiing experience and skier circulation, while providing for skier and groomer safety, **mainly within Hellroaring Basin**. Improvements are needed to respond to a growing skier market and desire for additional groomed and off-piste skiing terrain opportunities." (DN page 5, emphasis added) Also see:

FW-DC-REC-16: New and existing special-use permits serve the public interest

MA7-DC-01: Focused recreation areas provide sustainable recreational opportunities and settings that respond to increasing recreation demand

MA7-DC-02: These areas provide opportunities for large groups that may have high levels of social interaction as well as for competitive and non-competitive events

FW-DC-REC-11: Recreation activities contribute to jobs and income in the local economy

FW-DC-REC-15: Existing developed sites are sustainable, maintained, and updated to accommodate current and anticipated recreation needs

GA-SM-MA7-Big Mtn-DC-03: Forest conditions within the Whitefish Mountain Resort permit area are conducive to achieving the desired recreational setting and experience for users.

GA-SM-MA7-Big Mtn-DC-04 and the provisions to provide higher levels of grizzly bear security in the Hellroaring drainage isn't considered or worth mentioning as a condition to be attained with this project. This is arbitrary and capricious.

#### REMEDY

Maintain higher levels of grizzly bear security in the Hellroaring watershed to comply with the Forest Plan.