

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

SWAN VIEW COALITION)
Objector))
v.)
CHIP WEBER)
FLATHEAD FOREST SUPERVISOR)
Responsible Official)

**NOTICE OF OBJECTION
PURSUANT TO
36 CFR 218**

DECISION OBJECTED TO:

Taylor Hellroaring Project Draft Decision Notice and Finding of No Significant Impact (hereafter Project, DN and FONSI)
Chip Weber, Flathead Forest Supervisor, May 2018.

Objector:

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Keith Hammer
Chair

July 2, 2018
Date

Swan View Coalition is a non-profit conservation organization dedicated to conserving water quality and quiet, secure habitats for fish, wildlife and people on the Flathead National Forest and greater Flathead River Basin. Our members use these areas, including the Project area, for recreation, employment, wildlife viewing, photography, research, education, aesthetic enjoyment, spiritual rejuvenation, and other activities.

We attended the 4/6/17 open house for this Project. On 4/20/17 we submitted comments regarding the "Inadequate Regulation of Mountain Biking and Use of 'Stored' Roads in the NCDE," making specific references to the Project and asking that our letter be included in the Project administrative record. We reviewed the initial EA, and submitted comments on 1/22/18.

We have read the Response to Comments contained in Appendix 3 of the DN and have reviewed the updates made to the EA, as listed in the DN. This required a side-by-side comparison of the two EAs because the DN at best referenced changes to page numbers in the January EA and provides no page numbers for where those pages ended up in the May EA (often several pages displaced). At worst, many of the page numbers provided match up with neither EA. Similarly, the Response to Comments referenced mostly alternatives in the January EA, rather than the Selected Alternative in the May EA, and the May EA includes maps for only the Selected Alternative.

That said, the Response to Comments otherwise fails to adequately address our concerns and even more importantly fails to result in the substantive changes in the Project necessary to comply with laws and regulations. We remain concerned that the Taylor Hellroaring Project and DN/FONSI will harm water quality, fish, wildlife, and our members' interests.

We incorporate by reference the Objections submitted by Friends of the Wild Swan, Alliance for the Wild Rockies, Native Ecosystem Council, and WildEarth Guardians in this matter, as well as our comment letters listed above.

ORGANIZATION OF THIS OBJECTION

We have an Objection to the revised Flathead Forest Plan pending before the Regional Forester. That Objection contends not only with inadequacies of the revised Plan, but inadequacies in how the Flathead is currently implementing the existing Forest Plan and its Amendment 19. The Taylor Hellroaring Project would improperly apply the existing Forest Plan and A19 in ways described in our Forest Plan Objection, so we incorporate it as a part of this Project Objection.

Companion to this Project Objection is a DVD containing the documents we submitted along with our Forest Plan Objection. The DVD includes our Forest Plan Objection in Folder 00 and the documents referenced in that Objection in Folders 01 - 29. This Taylor Hellroaring Project Objection is included in Folder 0 and we have added a few more documents to the Folders on the DVD, as referenced in this Project Objection.

RELIEF REQUESTED

Rescind the DN and FONSI for the reasons stated below and prepare an adequate Environmental Impact Statement that addresses the deficiencies raised in this Objection. Redo the Project area Travel Analysis as a larger scale analysis, to adequately assess the short- and long-term costs of building and maintaining a minimum road system that is truly sustainable in light of realistic budget expectations and all standards, goals and objectives for the maintenance of water quality, fish, wildlife, and other resources. Decommission any user-created bike trails and do not add any new bike trails to the Trail System.

Do not allow a site-specific amendment that compromises visual quality by numerous large logging units in MA-7. Instead issue an amendment that applies A19 to the Lazy Creek Subunit to reduce confusion and increase protection of grizzly bear habitat in this area critical to linkage between the Whitefish Range and Salish Range. The Forest Service ownership in the Lazy Creek Subunit currently is a “no man’s land” floating between A19 areas to the north and east and DNRC lands to the west wherein only DNRC’s HCP applies, not A19. (EA at 3-183). It is arbitrary and capricious to leave the FS ownership in this Subunit without adequate protections for grizzly bear.

STATEMENT OF REASONS

Executive Summary

The DN and EA are rife with contradictory statements, leaving the public to wonder which ones to believe and which not. Overall, the documents attempt to reassure us that Forest Plan Amendment 19 will be faithfully implemented in the Taylor Hellroaring Project, while they simultaneously argue a different interpretation of the science that is the basis for A19 (as does the revised Forest Plan) and that A19 does not apply to portions of the Project area.

A19 has not been faithfully implemented on the Flathead, especially since 2011, as described in our Roads to Ruin report and its various supplements, as well as in our Forest Plan Objection (provided in DVD Folders 04 and 00, respectively). The Flathead, and GV-HHRD in particular, unlawfully rendered a number of roads “impassable” to motor vehicles by removing only a few of the many stream-aligned culverts that A19 says must be removed before the road can be considered “reclaimed” and omitted from calculations of Total Motorized Route Density (TMRD) following re-vegetation. Yet the Flathead omitted these “impassable” roads from TMRD anyway - until we caught it doing so, threatened a lawsuit, and brought about a 2017 field survey that found 13 of these 78 “impassable” roads indeed had numerous stream-aligned culverts left in place! (See DVD Folders 04 and 20).

Now, the Flathead wants us to believe it will comply with A19 even though the EA and DN largely continue to focus on simply rendering roads “impassable” to motor vehicles in order to omit them from TMRD, as though “impassable” is synonymous with “reclaimed” and includes making them impassable to non-motorized human use - and while continuing to argue that reclaimed roads need not be removed from the “system” or re-vegetated to be omitted from TMRD.

Similarly, the DN and EA on the one hand acknowledge that high levels of non-motorized human use on proposed bike trails disqualifies habitat from being Security Core. On the other hand, the DN argues that displacement of grizzly bears by non-motorized human use is not a primary concern until it is demonstrated to cause “disproportionate grizzly bear mortality or population declines.” (See DN at 91).

The goal of the Forest Plan and A19 is to limit grizzly bear displacement in order to limit bear mortality and its effects on the population, not to allow displacement until that mortality causes a perceptible population decline. The DN and EA repeatedly omit mention of A19's emphasis on ensuring that reclaimed roads physically prohibit their use as non-motorized human trails. They instead repeatedly emphasize that reclaimed roads need only be impassable to motorized use and propose to add 28 miles of high-use bike trails into the trail system, with some of them apparently on road templates stored as ISS and "reclaimed."

Taylor Hellroaring is one more project in which the Flathead wants us to believe it will faithfully implement A19 while simultaneously arguing that it need not do so. We object to the Flathead's circa 2011 reinterpretation of A19 and how it is to be implemented in the Project (see our Forest Plan Objection in DVD Folder 00).

The Taylor Hellroaring Project complicates matters further by simultaneously claiming A19 applies to the entire project (DN at 4; ISS roads will "meet the definition of reclaimed in accordance with A19") and that A19 does not apply to the Lazy Creek Subunit (DN at 7 and 91), even though that is where most if not all of the ISS roads are.

A. Roads

The Taylor Hellroaring Project would add historic roads back into and add new trails into the Forest System when the Forest Plan, law, budget concerns, and environmental concerns all say it should not. While the DN's Response to Public Comments attempts to allay our concerns with words and promises, the text of the EA remains unchanged and fails to insure that reclaimed roads no longer function as a road or trail, motorized or non-motorized.

Why should we believe that reclaimed roads will no longer function as trails when the plain language of the DN and EA repeatedly omit the prohibition against them serving as trails and instead focuses on making them simply impassable to motor vehicles? In a single paragraph on page 2-22, for example, the EA claims ISS roads "will be made impassable" and then claims that roads "with proposed trail templates would remain passable for horse, foot and bike traffic."

Similarly, the DN, at 7, states that roads "with trail templates would remain passable for horse, foot and bike traffic" even though A19 requires that reclaimed/ decommissioned roads be re-vegetated so they no longer serve as any type of road or trail. The EA and DN on the one hand state that there will be bike trails on ISS roads. On the other hand, pages 42-43 of the DN claim that the bike trails will be on "existing open" roads.

Why does the DN state that trails on ISS roads would remain passable for bikes if they are on existing open roads to begin with? We can't find where the DN states these currently open roads are going to be put in ISS, so what is going on?

Same goes for the DN statement on page 6: "ISS roads: The first portion of the road (50 to 300 feet) will be recontoured to the original hillslope except for roads with proposed trail construction." Firstly, this begs the same question as immediately above: "Why the different treatments if there are to be no trails on ISS roads?" Secondly, A19 requires that the first "200 to 600 feet" of a reclaimed road be "treated in such a manner so as to preclude its use as a motorized or non-motorized travel way." The proposed ISS treatments are not consistent with the A19 definition of "reclaimed" in spite of DN claims to the contrary.

Moreover, the DN and EA continue to argue that non-motorized human use is not a primary concern even though it displaces bears (DN at 91). So why should we believe the Project intends to insure that reclaimed roads, including ISS roads, will be treated to insure there is no human use of the road template?

It is of no comfort that the May EA, at 3-184, concludes:

No new roads open to public motorized use would be constructed under either action alternative. All new and restricted roads used for project activities would be closed to public access during and after activities. All temporary and system roads would be reclaimed after completion of project activities.

This claim to good behavior and road reclamation is contradicted throughout the DN and EA, as described previously. Frankly, we can't make heads or tails out of the DN and EA, though we are pretty sure the Flathead does not intend to reclaim all the system roads after the project. It appears the Flathead wants to take credit for treating ISS roads to meet A19's definition of "reclaimed" while not actually doing so and insisting that A19 does not apply to the Lazy Creek Subunit - all while providing no adequate substitute for A19 in that Subunit.

We ask in this Objection that A19 be applied to the Lazy Creek Subunit and that reclaimed roads be counted in Total Motorized Route Density (TMRD) calculations until the road treatments become effective. The EA needs to account for the time period during which reconstructed historic roads and temporary roads continue to count in TMRD after the logging and reclamation treatments are done and until the reclaimed road is adequately re-vegetated to physically prohibit human use of the road - not just motorized use.

Otherwise, there is no accounting in the EA for the impacts of human use of "reclaimed" or ISS road templates until they are adequately re-vegetated. Instead the EA ignores the impacts and allows some ISS roads to be used as trails. We detail this argument in our Objections to the Flathead's Beaver Creek, Cold Jim and Glacier Loon Projects, to name a few. (See our Beaver Creek complaint and summary judgment briefs in DVD Folder 02 and our Glacier Loon and Cold Jim Objections in Folder 0).

Moreover, the DN at 4 is flat wrong in essentially claiming that there is no difference between an ISS road and a reclaimed/decommissioned road, other

than that an ISS road retains a number in the road system. A decommissioned road (also a reclaimed road under A19) is to be managed “with the goal of reestablishing vegetative cover on the roadway . . . within ten years.” (16 USC 1608(b)).

The May EA, at 3-184, confuses the issue by apparently discussing reconstructed historic roads retained in the system alongside temporary roads. At least that’s the only sense we can make of the statement: “All temporary and system roads would be reclaimed after completion of project activities.” The FS does not commit to fully re-vegetating either class of roads, in violation of A19 and 16 USC 1608(b).

And so the Flathead misleadingly goes about chasing its tail, arguing it must rebuild roads, then add the roads back into the system so they can be reclaimed and later rebuilt again? Sounds like a perpetual federal make work project to us that will most assuredly not solve the weeds and other problems created by roads. Maybe the Flathead should instead plan for and arrive at a sustainable “minimum road system” as required by the Travel Planning Regulations?

As discussed in more detail in our Forest Plan Objection (DVD Folder 00) and Roads to Ruin report (DVD Folder 04), A19 does not allow for an increase in the Flathead’s road system. Roads must be decommissioned, not just reclaimed, to be omitted from calculations of TRD/TMRD/TMAD - and there can be no increase in TRD/TMRD/TMAD under A19. (See also Section F, below).

The May EA states clearly, on page 3-182, that the Canyon McGinnis and Werner Creek Subunits currently fail to meet the already-relaxed/amended A19 parameters for OMAD/TMAD/Security Core and will continue to fail following this Project: “The existing conditions of these subunits does not meet the amended standards, however, access parameters would not be affected in either subunit through project activities.” The Flathead is required by FWS’s BiOps on the continued implementation of A19 to make progress toward full achievement of the OMAD/TMAD/Security Core objectives. The Project does not do this and so violates A19 and the ESA. It is entirely disingenuous to increase recreational access in the Project area and rebuild historic roads while not taking the road closure and reclamation/decommissioning measures necessary to meet A19.

B. Trails

As discussed in the above Roads section, the DN and EA fail to adequately describe where trails will or will not be developed on existing roads or historic roads. They instead provide conflicting statements about ISS roads being at the same time impassable and yet passable to bike, foot and horse. They instead claim ISS roads will be reclaimed per A19 and yet remain passable to bike, foot and horse. They instead allow these exemptions for continued human use while simultaneously stating all bike trails on roads will be on roads that already exist and are open roads.

The only way we can make sense of this is to assume a formal trail system of 28 miles is being proposed while an unspecified informal trail system will be allowed to persist on temporary, historic and ISS roads - which is unlawful. The DN, at 80, is of little help in stating broadly that there are “historic trails, roads and transportation corridors in the project area . . . we intend to utilize these features, **when found** if they can be effectively integrated to improve sustainability and efficiency of the trail.” (Emphasis added).

This does not square well with page 82 of the DN, which boldly claims: “There are currently no known illegal mountain bike trails in the project area on national forest land.” It squares better, though unlawfully, with the Taylor Hellroaring Project Scoping Document:

Most of the dispersed recreational activity occurs on or adjacent to the system of year-round open roads, seasonally open roads or **historic road templates . . . there is also unauthorized/illegal motorized use** within the project area. This includes motorcycle and ORV use in summer and snowmobile use in closed areas in winter.

(Emphasis added). Are we to believe there is not a single illegal mountain bike trail on FS land in the Project area? Or is it that the FS has not yet found them, or found them and refuses to call them illegal?

How is it that the local mountain bike community knows this area so well and participated in the collaborative that resulted in this Project proposal (DN at 75) if it isn’t already biking in areas off of System roads and trails? The local mountain bike community illegally established bike trails on private Stoltze land in Haskill Basin and was later caught advocating for Stoltze and FWP to retain those trails for bike use in a conservation easement (just as it did on DNRC lands on Spencer Mountain).

Are we to believe mountain bikers are totally behaving themselves and not establishing a single illegal mountain bike trail on FS land in the Project area? The DN and EA fail miserably to account for the impacts of current recreational use, fail to adequately detail where System and informal/illegal trails will be allowed to persist on historic roads and elsewhere, and fail to adequately assess the impacts of the proposed trail system additions.

For example, page 84 of the DN responds to public comment in part by referencing Trails L8 and C5. On the DN’s Proposed Trails map for the Selected Alternative, however, we find two entirely separate Trail L8s and no Trail C5.

Moreover, the proposed trail system will impact the Hellroaring Basin on its southern, western and northern sides. Hellroaring is already being heavily impacted by Whitefish Mountain Resort on the eastern side. This violates the mitigation measures placed on the 1995 Big Mountain Expansion decision in 1995 to maintain grizzly bear habitat security in the Hellroaring drainage. (See the May EA at 3-183).

In DVD Folder 28 we include photos of illegal bike trails and “features” in Hungry Horse’s Lion Hill area. There the FS wants to bring these illegal trails into the System and partner with the mountain bike community to maintain them.

Photos 10-19 show there is considerable use and unlawful construction of banked corners of the trail above road #5312. Photos 25 - 36 show the proposed trail that appears to get substantial use as it drops from the end of road #5312 down to the trail around Lion Lake. Photo 25 shows a wide corner that would likely be taken at even higher speeds by mountain bikers if the vegetation is trimmed back to provide longer line-of-site as proposed. Photos 25, 26 and 29 show jumps indicating bikes are using speed rather than caution. Photos 28 and 30-32 show corners that have been banked to increase bike speed. Photo 33 and especially 34 show where the trail has been widened to accommodate bikes jumping off the rock in the foreground and landing to the right of the trail tread (with a 42” hiking pole for width reference).

The FS is absolutely wrong-headed in taking its cues from a mountain biking collaborative and in arguing it needs to seek partnerships with mountain bikers in order to be able to afford proposed trails. Our Hungry Lion photos show that the type of trail mountain bikers are willing to maintain is precisely the type of high-speed trail cautioned against in the habitats of bears and mountain lions, as well as absolutely at odds with public safety and the fair sharing of trails with hikers and horseback riders.

The flawed and circular notion of enlisting biased recreation partners to plan and maintain unaffordable trails will put the Flathead in the same position that partnering with the timber industry has. The May EA’s section on invasive weeds is clear: weeds exist in the project area and will be spread by the building/rebuilding of roads and logging equipment, with the No Action alternative having the least risk of spreading weeds. Yet the DN chooses to build roads, rebuild roads, build trails, and conduct logging - all of which the EA says will spread weeds. These partnerships are a sham; real friends don’t let friends drive drunk.

Last, but not least, the DN at 71 fails to respond to public concerns that the EA provides an inadequate range of alternatives, with Alternative 3 proposing two-thirds the miles of bike trails proposed in Alternative 2. The DN and EA fail to analyze an alternative with proposed new bike trail construction mileage between 0 and 28 miles or with proposed bike trail overlays on road mileages between 0 and 15.

The DN also makes unsupported conclusions that Trail R1 will not increase use of the Werner Lookout area (DN at 73) and that no new OSV use is expected on temporary and ISS roads and skid trails. This is contrary to the finding that unlawful snowmobile use is occurring in the area (Scoping Document page 8). While we appreciate that Trails C3 and C4 were dropped from the Selected Alternative to not better connect human use to the grizzly bear Security Core surrounding the Smoky Range NRT (DN at 83), it is not assured that

summertime connections will not be made anyway via the corridors kept clearer of vegetation for OSV Trails both to the east and west of C3 and C4.

C. Travel Planning

1. Neither the EA or DN/FONSI provide an adequate assessment of the funding needed to maintain and manage the current road and trail system, the Project system or the Minimum Road System (MRS), in violation of the NEPA, Travel Planning regulations, and the Administrative Procedures Act, among others.
2. Nowhere do the EA and DN/FONSI disclose the funding needed to maintain the current road and trail system, Project system or MRS in either the Taylor Hellroaring area or across the Flathead National Forest.
3. Initial Forest Plan Revision documents in 2004, however, found “The Flathead National Forest needs \$6.2 million each year to maintain its road system, but receives less than \$1 million.” (USFS Western Montana Planning Zone; Analysis of the Management Situation; Draft Version 1; 2/23/2004).
4. The EA leaves the public and decision-maker wholly uninformed about how much of the funding needed for fully maintaining the MRS in the area will or will not be provided by the Project.
5. Neither the EA or DN provide an adequate assessment of the funding needed to maintain and manage the current road and trail system, the Project system or the MRS. This renders the entire analyses arbitrary, capricious, and an abuse of agency discretion - in violation of the NEPA, Travel Planning regulations, Administrative Procedures Act, and other laws detailed below.

D. Best Management Practices for Water Quality

1. The EA and DN/FONSI, in failing to plan for and implement an affordable and sustainable MRS, also fail to provide for the full implementation of all measures needed to minimize adverse impacts on resources. The laws this violates include but are not necessarily limited to the NEPA, National Forest Management Act, Endangered Species Act, Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clean Air Act, and Migratory Bird Treaty Act.
2. BMPs must be fully implemented to comply with Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, and the Clean Water Act. Moreover, BMP's are required as both Forest Plan standards and Forest Service Manual directives for projects - meaning their full implementation is required by the NFMA as well.
3. The Project EA fails to disclose important factors regarding BMPs that the Flathead has disclosed in other Projects. The Hungry Lion EA for example, at

192, finds “road treatments such as BMP improvements can reduce sediment delivery within one year, and these effects can persist for several years. By contrast, forest treatments such as timber harvest can change hydrologic processes and disturbance regimes for several decades.”

4. In other words, the positive effects of BMPs are short-lived while the negative effects of logging are long-lived. Yet the Forest Service relies on timber sales to fund haul route BMPs (e.g. Hungry Lion EA at 31 and 36; Project EA at 2-11, -12)!

5. It is clear the EA and DN fail to identify and secure funding needed to provide for the timely, orderly and continual application of BMPs to all roads in either the current system, Project system or MRS. Nor do they in the alternative arrive at a smaller MRS to which all BMPs can be fully applied continually under current funding levels.

6. The failure to either provide adequate funding to fully maintain the road and road closure system, or to reduce the system to a size that is adequately funded, also results in unmitigated impacts to other forest resources including but not limited to terrestrial wildlife such as elk, species dependent on old forests and snags out of reach of firewood cutters, and threatened species such as lynx, bull trout, grizzly bear, and likely soon, wolverine. And the EAs fail miserably to describe the effects of inadequate funding and road maintenance on these and other resources.

7. The laws this violates include but are not necessarily limited to the NEPA, NFMA, ESA, Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clean Air Act, and Migratory Bird Treaty Act.

E. Invasive Weeds

1. Similar to the bias towards logging in order to apply BMPs to haul routes, the EA notes the need to designate haul roads in order to treat them for weeds. (EA at 2-21).

2. These biases also reveal the agency’s and Flathead National Forest’s overall and unacceptable bias to build roads into every corner of the suitable timber base in order to allegedly make timber sales “economical.” The Flathead, however, provides absolutely no economic analysis demonstrating that the American taxpayer can afford such a road system or that the resulting timber sales will cover the costs of building and adequately maintaining those roads in perpetuity. If this pipe dream were based in reality, the agency would not have the \$10 billion backlog in needed road maintenance discussed below in Section F, nor would the Flathead National Forest receive less than one-sixth the funding it needs to maintain its share of that road system, as discussed above!

3. To highlight these shortcomings, we note the DN’s response to public comments asking for better information about previous NEPA decisions

regarding roads in the Project area (page 64): “There isn’t any previous NEPA decisions for roads within the project area.”

Seriously? The Flathead has conducted no NEPA analysis and issued no NEPA decisions regarding roads in the Project area since NEPA was issued in 1969? If this is true, then it highlights the degree to which the Project EA is inadequate, fails to provide the adequate level of NEPA necessary to implement the minimum road system called for in the Travel Planning Regulations, and fails to provide the adequate level of NEPA omitted from the Travel Planning process.

4. These shortcomings lead to a Project that fails to conduct any road decommissioning (DN at 63) and will instead increase road templates, haul roads and weeds, making matters all the more unacceptable. This violates NEPA, NFMA, Endangered Species Act, Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clean Air Act, and Migratory Bird Treaty Act.

F. More on Non-Compliance with Flathead Forest Plan Amendment 19.

1. The EA and DN fail to comply with Amendment 19 by attempting to replace Amendment 19’s requirements for “reclaimed” roads with various levels of “Intermittent Store Service” (ISS) roads and “rehabilitated” temporary roads. This it does while claiming that ISS roads will meet the A19 definition of reclaimed, even where A19 reportedly does not otherwise apply.

2. Amendment 19 states: “A reclaimed road has been treated in such a manner so as to no longer function as a road or trail and has a legal closure order until reclamation is effective. . . The acceptable lag time for the treatment to become effective and the expected persistence of people to continue to use a road should dictate the amount and type of initial, and perhaps follow-up, treatment required. Greater initial revegetation and barrier work will be required if the expectation is to meet reclaimed road criteria in one year as opposed to ten years . . .” (DVD Folder 01: Amendment 19 Appendix D a.k.a Flathead Forest Plan Appendix TT)

3. In other words, a road is not to be considered “reclaimed” until re-vegetation and other barriers to human travel have had time to become effective at preventing the road’s use as either a motorized or non-motorized travel-way to any degree larger than incidental use of the adjacent forest area. Indeed, grizzly bear avoidance of road closed to motorized vehicles gives rise to the importance of limiting TRD, not just Open Route Density (TRD).

4. FWS, in its 10/25/2005 Biological Opinion on the continued implementation of Amendment 19 (page 10) summarizes relevant research this way:

“Amendment 19 established programmatic direction for access management on the Forest. Amendment 19 was developed to minimize negative impacts from motorized access identified in the 1987 Grizzly

Bear Compendium (IGBC 1987), and was based on recommendations of the 1994 IGBC Taskforce Report and the 1993 progress report for the South Fork Grizzly Bear Project (Mace and Manley 1993), commonly referred to as the South Fork Study. The study area was west of Hungry Horse Reservoir, in the Swan Mountains. Mace and Manley's progress report and previous research (Mattson et al. 1987, McLellan and Shackleton 1988, Aune and Kasworm 1989, Kasworm and Manley 1990) supported conclusions that **grizzly bears consistently were displaced from roads and habitat surrounding roads often despite relatively low levels of human use**, and that substantive blocks of unroaded habitat were important to grizzly bears, especially female grizzly bears with cubs."

(Emphasis added to highlight that the research found bears were displaced by relatively low levels of **human** use, not just **motorized** use). We incorporate the whole of the 2005 BiOp and the above referenced research as a part of this appeal. The 2005 BiOp can be found in Folder 01 of the companion DVD.

5. Amendment 19 requires that roads be reclaimed and re-vegetated in a way that physically prohibits human use in order to lower TRD. In contrast, a few roads may be simply bermed to increase Security Core area. Gates are allowed only to lower ORD. These very important differences in road closure methods and requirements arise from the South Fork Grizzly Bear Study findings that female grizzly bears significantly avoid otherwise preferred habitats near roads, even those closed with gates or berms. Hence, the critical reliance on road reclamation to lower TRD and its preference in securing Core.

6. The EAs and DN, however, proposed ISS and temporary road "rehabilitation" treatments that not only fall short of an effectively "reclaimed" road, but provide for the road template to be reused in the future, regardless of whether the road has ever been adequately re-vegetated or has ceased to be used by humans.

7. The EAs and DN fail to adequately calculate and assess the impacts of TRD to grizzly bear, largely by failing to apply A19 or similar conservation standards to the Lazy Creek Subunit. If A19 were applied, the EA and DN mistakenly would remove ISS and rehabilitated temporary roads from calculations of TRD immediately - in defiance of Amendment 19 requirements. For a more detailed description of why reclaimed roads must be fully revegetated before being adequately reclaimed and omitted from calculations of TRD/TMRD/TMAD, see our Beaver Creek summary judgment response to reply brief in Folder 02 on our companion DVD.

8. See also the 10/25/05 BiOp on A19, page 75, in DVD Folder 01: "Reclaimed, also called obliterated or decommissioned, road is treated in a manner to no longer function as a road. Barriers and revegetation of roadways are minimum treatments."

9. Indeed, Flathead National Forest has tried unsuccessfully to circumvent these Amendment 19 requirements before. On May 11, 1999 the Flathead Forest Supervisor issued LRMP Implementation Note #13, allowing stream-aligned

culverts to remain in reclaimed roads and relaxing criteria for determining when a reclaimed road is effectively no longer a road or trail and can hence be omitted from TRD calculations (DVD Folder 18).

10. Appellants' attorney filed a 60-day notice of intent to file suit under the Endangered Species Act, challenging Note #13's negative effects on threatened grizzly bear and bull trout (DVD Folder 18).

11. The Forest Supervisor rescinded Note #13 on November 19, 1999 (DVD Folder 18) and simultaneously assured appellants' attorney the "Forest Service will apply the definition of 'reclaimed road' under Forest Plan Appendix TT . . ." (attached). Similar assurances were issued appellants 2/7/00 (DVD Folder 18).

12. This brings us full circle to the Taylor Hellroaring Project. The EA and DN would consider ISS and rehabilitated temporary roads immediately "reclaimed," in clear violation of Amendment 19, Appendix TT, the rescission of Note #13, and written commitments made to appellants. This even though the EA and DN claim ISS roads will meet A19 definitions of "reclaimed."

13. These and other facts show the Flathead National Forest is still attempting to end-run Amendment 19 and to continue implementation of a rescinded Note #13. See in DVD Folder 01, for example, Flathead National Forest's 3/23/15 Road Decommissioning Projects spreadsheet. The yearly totals on pages 19 and 20 show that the column "Category 3 Roads Reclaimed & Left as System Roads, Still Monitor for A19" was initially used for newly "reclaimed" roads that were not yet adequately re-vegetated in order to be removed from the "system" and considered "effectively reclaimed." Even though Implementation Note#13 was issued and rescinded in 1999, the spreadsheet shows that roads reclaimed thereafter were immediately removed from the "system," even though they had not yet been adequately re-vegetated.

14. The Flathead itself made clear that reclaimed roads cannot be omitted from the calculation of TRD/TMRD/TMAD until the revegetation work has become effective at deterring human use, not just motorized use. See in particular the (First) Supplement to our Roads to Ruin/TMRD report in Folder 04 of our companion DVD (Supplement to Roads to Ruin 171205.pdf). Attached to that Supplement is the 3/2/01 letter from the Flathead to FWS stating:

Some roads that have all reclamation work completed are still counted in calculation processes. Roads utilized in Total Access Density include roads for which reclamation work has been completed, pulling of culverts, installation of drainage dips, distributing of rocks or debris on the road surface, but the road has not revegetated to the level required to meet Amendment 19 reclamation requirements. These roads have all reclamation work completed, but still must be counted for Total Density calculations.

15. In spite of the clear language of A19 and the Flathead's own interpretation of it, the Flathead is now fully engaged in attempts to end-run A19 through projects

like Taylor Hellroaring and through a false accounting of A19 in the revised Forest Plan EIS.

16. The Flathead's Taylor Hellroaring Project and the continued attempts to end-run the requirements of Amendment 19 constitute irretrievable and irreversible commitments of resources in violation of the NEPA, NFMA and ESA.

G. Other Resources Short-Changed by Road Reclamation Short-Cuts

1. Grizzly bear and native vegetation are not the only resources to be harmed by failing to fully reclaim and re-contour harmful roads. Aquatics and fish are harmed also.

2. However, nowhere do the DN and EA provide an adequate discussion or assessment of the importance of maintaining subsurface water flow that is often interrupted and turned into surface flow by roads cut into hillsides. These documents fail to provide a rationale for deciding whether to build a road in the first place and whether re-contouring a road during decommissioning or reclamation can effectively return that water to sub-surface. The Flathead's project area TAs and Forest-wide TAR are similarly flawed, as discussed in our comments on the TAR (DVD Folder 29) and our Glacier Loon Objection (DVD Folder 0).

3. Other assessments point to the importance of fully and faithfully reclaiming roads for fish. For example, FWS's August 14, 1998 *Biological Opinion on INFISH and PACFISH* found reductions in road densities and "rehabilitation of road-miles cannot be accomplished alone by gating, berming, or otherwise blocking the entrance to a road permanently or temporarily, or seasonally closing roads, but will require obliteration, recontouring, and revegetating." Indeed, Amendment 19's road reclamation requirements, when faithfully implemented, can be viewed as working hand-in-hand toward what is necessary to avoid "jeopardy" to bull trout, accomplish bull trout recovery and benefit other fish.

4. The EA and DN lack scientific integrity and pursue the same old tired path of trying to keep too large a road system on the landscape. We urge the Forest Service to visit the following web page for a discussion of how road re-contouring can greatly shorten the watershed recovery timeline: <http://y2y.net/our-work/updates-from-the-field/ground-breaking-research-in-road-restoration> . We also incorporate this and Rebecca Lloyd's pending research papers into the Administrative Record for this Objection and Project. We have also included Lloyd et al's 2013 paper "Influence of road reclamation techniques on forest ecosystem recovery" in DVD Folder 15.

5. The EA's and DN's reliance on, at best, pulling stream-bearing culverts from a handful of reconstructed "historic" and new "temporary" roads in the Project, then dismissing them from TRD/TMRD/TMAD calculations and other acknowledgements of their continued negative impacts simply does not cut the

mustard. This is arbitrary, capricious, an abuse of agency discretion, and not in accordance with law.

H. Visual Quality

1. The DN, at 5, lists 13 logging units that will violate MA-7 limits on size intended to protect visual quality! Here and elsewhere the DN and EA proposes a project-specific amendment to the Forest Plan to allow these violations of MA-7 standards.
2. This is a wholesale abandonment of MA-7 standards in the Project area, not a limited exception for extraordinary circumstances. The scope of the proposed amendment requires that it be conducted as a major amendment to the Forest Plan, not as a project-specific amendment.
3. Why have a Forest Plan with visual quality objectives and standards if you don't intend to make every effort to comply with them? The public and the Forest Plan call for adequate retention of visual quality, so rework this proposal to accomplish that desired future condition.

I. Epilogue

1. It is worth noting that Deputy Chief Joel Holtrop's 11/10/10 directive launching the Travel Analysis Process included the premise and finding that "this process points to a smaller road system." (Attached to our Glacier Loon Objection in DVD Folder 0). It is also worth noting that Joel Holtrop authorized A19 as Flathead Forest Supervisor.
2. While Deputy Chief Leslie Weldon's subsequent 3/29/12 directive removed these words, the agency cannot escape the fact that its road system is too large, too expensive, environmentally damaging, and needs to be reduced.
3. Indeed, Chief Mike Dombeck in 1998 stated the Forest Service road system was overbuilt and under-funded. With a \$10 billion backlog in needed road maintenance, Dombeck stated "Only about 40% of forest roads are maintained to the safety and environmental standards to which they were designed." (Dombeck press release; 1/22/98; attached to our Glacier Loon Objection in DVD Folder 0).
4. Our comments on the EA included a number of citations to research and other sources demonstrating watershed restoration requires fewer roads, not fewer trees. We have since filed Objections to other Forest projects, like Glacier Loon, Hungry Lion and Cold Jim, and asked that they be included in the Taylor Hellroaring administrative record. These Objections are included in DVD Folder 0. We also incorporate by reference all of the sources cited in these Objections.

5. The EA and DN/FONSI have stood common sense and the entire process on its head in arguing that it intends to arrive at its “minimum road system” by building more “temporary” roads and by reconstructing “historic” roads. Taylor Hellroaring, in conjunction with other projects like Trail Creek Salvage, Glacier Loon, Cold Jim, Hungry Lion, and Bug Creek - along with the revised Forest Plan - falsely claim that A19 and the grizzly bear research allow an unlimited number of stored and less than fully reclaimed roads to exist because non-motorized human use does not present a mortality risk to grizzly bears. Research, including research relied upon by the Forest Service, does not support this conclusion (see page 6 of our Revised Forest Plan Objection in DVC Folder 00).

6. Indeed it appears Flathead National Forest intends to build more permanent roads both within and outside the NCDE Grizzly Bear Recovery Zone, even though it may feign “reclaiming” some these roads. It is trying to get away with this by not truly decommissioning the roads it wishes to omit from calculations of and limits to TRD/TMRD/TMAD. Nowhere, however, has the Flathead clearly described its intentions Forest-wide in spite of numerous meetings with objectors to discuss this very issue, let alone described its intentions in adequate NEPA documents made available for public review.

The Flathead has bastardized A19 through a steadily declining commitment to its implementation and a revisionist history and misrepresentation of A19 through its Forest Plan revision process and various project NEPA documents. The details of this are described fully in our Revised Forest Plan Objection and our Roads to Ruin report and its supplements, found in DVD Folders 00 and 04, respectively.

8. And, last but not least, the Flathead National Forest’s longstanding position is dumbfounding in that leaving roads and culverts to spread weeds, violate BMPs and dump dirt into streams does not require NEPA, but any decision to do something about it does require NEPA and inevitably also “requires” more road building and logging. How reassuring!