United States Department of Agriculture **Forest Service** **Region One**
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Dear Ms. Ellersick and Mr. Juel:

This letter is in response to your objection dated May 7, 2007, and May 9, 2007, to the Myrtle Creek Fuels Reduction Project located on the Bonners Ferry Ranger District of the Idaho Panhandle National Forests. I have read your objection on behalf of the The Lands Council, WildWest Institute, Selkirk Conservation Alliance, Alliance for the Wild Rockies, and Kootenai Environmental Alliance, and have reviewed the Final Environmental Impact Statement (FEIS), including the disclosed environmental effects. My review was conducted in accordance with 36 CFR 218.

On December 3, 2003, President Bush signed into law the Healthy Forests Restoration Act of 2003 (HFRA) to reduce the threat of destructive wildfires while upholding environmental standards. A key component of the act is to encourage early public input during the planning process. This predecisional collaboration process is vital to avoid potential disputes late in project design, and to allow the land managers to identify and correct any concerns early in project development, and to fine-tune the design of the proposed fuel reduction project before a final decision is made.

In September 2003, a wildfire burned approximately 3,450 acres in the municipal watershed for the City of Bonners Ferry, Idaho, and affected the water quality. The fire and its negative effects to the municipal water supply heightened the community's awareness of potential risks if another large fire burned within the watershed. In June 2004, the City of Bonners Ferry, Kootenai Tribe of Idaho, and Boundary County Commissioners approached the District regarding the possibility of a HFRA project in the City's municipal watershed (Myrtle Creek) to reduce wildfire threats to the watershed brought about by the existing conditions. The Myrtle Creek Working Group provided an open public forum for collaboration, including seven meetings and two trips to the project area over the course of 2 years. The Lands Council and Selkirk Conservation Alliance

were represented at the meetings and field trips. A representative of the Alliance for the Wild Rockies attended only the meeting at which the Forest Service presented comments received during the comment period for the Draft Environmental Impact Statement (DEIS). The WildWest Institute, Alliance for the Wild Rockies, and Kootenai Environmental Alliance have limited their involvement in the process to written responses, while not taking advantage of field trips and meetings held with other participants where ideas could be freely exchanged. In the future, I hope that these organizations will be more involved early in the collaborative process to avoid multiple objections late in the project design.

This project clearly demonstrates compliance with the Healthy Forests Restoration Act (HFRA). The primary purpose of the Myrtle Creek HFRA Project is to reduce wildfire risk to the municipal water supply, and to enhance efforts to protect the watershed and address threats to forest health, including catastrophic wildfire, across the landscape (Sections 2.1 and 2.3 of HFRA). Goals of the project are to:

- Reduce hazardous fuels to varying degrees across the landscape; thereby reducing the risk and after effects of undesirable uncharacteristic* fires, especially crown fires, and enhancing fire suppression control efforts by reducing fire intensity.
- Reduce the vulnerability of the Forest to unwanted wildland fire, both on a stand basis and across the landscape, by trending toward conditions that restore stand composition and resilience to disturbances such as drought, insects and diseases, and fire.

* Uncharacteristic wildfires often include unnatural increases in wildfire size, severity, and resistance to control and the associated impacts to people and property. (2001 Roadless Rule.)

I have reviewed the project in light of the issues and suggested remedies presented in your objection letter and have classified them into the following two categories: 1) violation of environmental laws, regulations, and policy; and 2) HFRA-specific concerns related to this project.

1. Violation of environmental laws, regulations, and policy.

I have reviewed your assertions of violation of environmental laws, regulations and policy, as related to compliance with the National Environmental Policy Act (NEPA), 2001 Roadless Area Conservation Rule, Appeals Reform Act (ARA), Healthy Forests Restoration Act (HFRA), Endangered Species Act (ESA), Executive Order 13186, National Forest Management Act (NFMA), the IPNF Forest Plan, the U.S. Constitution, the Clean Water Act, and the Administrative Procedures Act (APA). More specifically, my review included the following issues: meeting the purpose and need of the project; hydrology, fire and fuels, and soils analyses; cumulative effects analysis; activities in Inventoried Roadless Areas and the analysis of affects; analysis of grizzly bear and other wildlife species; compliance with state water quality standards; the need to address scientific uncertainties concerning treatments in old growth habitats, and to demonstrate reliability of methodologies used to analyze affects within old growth stands; and the objection that implementation of the proposed action as is would be arbitrary, capricious or otherwise not in accordance with the law.

These issues are addressed in the EIS and project record; and I believe the project is in compliance with existing laws, regulations, and policy.

Roadless Area Conservation Rule of 2001

Specifically concerning Inventoried Roadless Areas (IRAs) and the Roadless Rule, this project is consistent with the 2001 Roadless Rule and meets exception 294.13(1)(b)(1)(ii) as follows: The trees to be removed are of generally small-diameter. Large diameter western larch, white pine, and Douglas-fir (in addition to large diameter trees of other species) would be retained and no future overstory removals would be scheduled. In areas where irregular shelterwood cuts are prescribed, the stands are generally dominated by trees smaller than 10 inches diameter at breast height (d.b.h.). Commercial thinning would focus on retention of the biggest and best trees available in the stand, particularly western larch; the average-sized tree removed would typically be less than 9 inches d.b.h. Group selection cuts would feature protection and maintenance of the old growth trees (typically ponderosa pine, western larch, and Douglas-fir greater than 21 inches d.b.h.) and additional large diameter trees that will contribute to the existing and future old growth character of these stands. The stands are now dominated mostly by Douglas-fir less than 12 inches d.b.h., and treatment would focus primarily on the removal of smaller diameter trees.

The fuels reduction treatments and silvicultural prescriptions proposed in the IRAs are needed to maintain and restore the characteristics of ecosystem composition and structure (such as to reduce the risk of uncharacteristic[1] wildfire effects) within the range of natural variability that would be expected to occur under natural disturbance regimes, on a landscape scale. Irregular shelterwood prescriptions have been designed to approximate regeneration processes that occurred in the moist forest types through natural disturbances and would feature species that are more resistant to insects and disease and fire. In the long-term, restoring the desirable characteristics of ecosystem composition and reducing the risk of uncharacteristic wildfire effects. Commercial thinning is designed to approximate some of the historic variability in the moist forest types while meeting specific fuels management and water quality objectives for the municipal watershed. In the dry forest types, group selection prescriptions would create fuel buffers in stands containing overstories of ponderosa pine, Douglas-fir, and larch with understories thickets of Douglas-fir that have formed ladder fuels. The objective of the buffers is to slow the spread of fire and help keep the fire out of the overstory tree canopies, thus enhancing fire suppression control efforts by reducing fire intensity.

This project is also in line with the State of Idaho's Roadless Area Petition filed with the Secretary of Agriculture, reviewed and recommended by the Department's Roadless Area Conservation National Advisory Committee, and accepted by the Secretary on December 22, 2006. The proposed fuels reduction areas are within roadless areas identified under the State petition as being within the General Forest Area management theme. This theme permits road construction and timber harvest after necessary environmental analysis is completed.

Grizzly Bear Analysis

Analysis of the project's potential effects on grizzly bear habitat meets applicable laws, regulations, and policies. An objection stated that the project violates stipulations of the

[1] Uncharacteristic wildfires often include unnatural increases in wildfire size, severity, and resistance to control and the associated impacts to people and property. (2001 Roadless Rule.)

settlement agreement from *Alliance for the Wild Rockies et al. v Bosworth* 2001. However, the March 20, 2001, Settlement Agreement, paragraph #8, states very clearly, "This agreement shall expire, and the parties shall petition the Court to relinquish all remaining jurisdiction over this action, without opportunity for reinstatement, after Defendant's final decisions regarding the amendments discussed in paragraph 4 become effective." The terms and conditions of the settlement agreement were met when the Forest Service made a final effective decision regarding the access amendment.

The project utilizes and analyzed for the applicable management standards. Following the court decision that set aside the Forest Plan Amendments for *Motorized Access Management within the Selkirk and Cabinet-Yaak Grizzly Bear Recovery Zones for the Kootenai, Idaho Panhandle and Lolo National Forests* ("Access Amendment"), the ROD and subsequent BO for the Access Amendment are no longer in force. Thus, grizzly bear management reverts to Terms and Conditions of the 2001 *Amended Biological Opinion for the Continued Implementation of the Idaho Panhandle National Forests Land and Resource Management Plan* and IPNF 1987 Forest Plan Wildlife Standard 4c ("strive for at least 70 square miles of security"). Compliance with these standards is clearly documented in the project file. Analysis of the effects of logging in grizzly bear core habitat was sufficient. Effects of helicopter logging on grizzly bear core were addressed through formal consultation with the USFWS. The resulting BO determined that the proposed action was not likely to jeopardize the continued existence of the grizzly bear within the Selkirk Recovery Zone and, by extension, the listed population in the conterminous United States.

Use of Best Available Science

The analysis for this project is based on the consideration of the best available science. The best available science is used throughout the FEIS, Responses to Comments on the DEIS (Appendix F of the FEIS), Biological Assessments and Evaluations, Biological Opinions, and the project file.

Forest Plan Old Growth Standards

The FEIS clearly demonstrates consistency with the Forest Plan Old Growth Standards. The proper definition of old growth was used (Green, et. al., 1992, as corrected September 2004). Standards for the maintenance and distribution of old growth are met as this project utilized two independent inventories and monitoring tools to verify that the IPNF is maintaining 12 percent allocated old growth, compared to the standard of 10 percent, and the project assessment area is more than 28 percent allocated old growth. The proposed action includes entry into allocated dry-forest old growth to create conditions that would be more sustainable. It will result in no net loss of allocated old growth. Careful review and analysis of the size of old growth stands show that this standard is being met. No roads will be constructed, thus, the project meets the standard that roads shall be planned to avoid old growth management stands. There are no grazing allotments in the project area, thus none occur in old growth and that standard is met. Current old growth allocations meet and far exceed Forest Plan standards for management of old growth within lands suitable for timber production.

2. HFRA-specific concerns related to this project.

Your Healthy Forests Restoration Act (HFRA) concern is that the EIS fails to demonstrate consistency with applicable portions of the HFRA. As I stated previously, this project clearly demonstrates compliance with the HFRA. More specifically, it meets HFRA in the following ways:

Title I of HFRA authorizes hazardous-fuel reduction projects on National Forest System lands in municipal watersheds that are at risk from wildland fire. Within at-risk municipal watersheds, HFRA provides for expedited vegetation treatments on National Forest System lands in Condition Class 3 in all fire regimes. The expedited treatments are also provided for by HFRA in Condition Class 2, in Fire Regimes I, II, or III, that are in such proximity to a stream feeding a municipal water supply system that a significant risk exists for a fire disturbance event to have adverse effects on the water quality or maintenance of the system. This includes a risk to water quality posed by erosion following such a fire disturbance event. (See page 15 of the Interim Field Guide.)

Review of the FEIS and project file show that the project clearly meets the intent of Title I through the criteria for design and location of the fuel reduction treatment areas. Myrtle Creek has served as the municipal watershed for the City of Bonners Ferry since 1928 and is identified as part of the wildland/urban interface in Boundary County's Wildland/Urban Interface Fire Mitigation Plan. Documented fire behavior identified the need to include fuel reduction treatments in the adjacent Snow Creek drainage to effectively reduce fire risks in the municipal watershed. The fire regime conditions classes, within the proposed treatment areas, have been moderately removed from the natural range and meet the definition of Condition Class 2, within areas of Fire Regimes I and III. I believe HFRA is the appropriate authority under which to conduct analysis and implementation of this project.

The public collaboration activities for this project clearly met HFRA's intent to encourage meaningful public participation and facilitated collaboration among state and local governments and Indian tribes, and participation of interested persons during preparation of the project. As stated earlier, a total of seven public meetings and two public trips to the project area were held over the course of 2 years.

This project also meets HFRA's requirements concerning old growth stands [Section 102(e)(2) and (4)]. The necessary review of the management direction for the project was completed, including a review of pertinent scientific information concerning treatments in old growth stands. In particular, Pfister (2000) discussed the types of old growth where some level of management is appropriate, concluding as follows: First, initial restoration cutting treatments appear necessary to restore old-growth stands historically sustained by relatively frequent low to mixed-intensity fire. The most extensive example would be old-growth ponderosa pine and ponderosa pine/Douglas-fir stands. Overstocked stands, with sapling pole understories, are at high risk to stand replacement fire, and may not have the capacity to regenerate themselves following such fires. The appropriate treatment is to *significantly* (emphasis added) reduce the density of understory *and* (emphasis added) overstory trees established since Euro-American settlement, and remove them from the site. Following cutting, restoration of fire, through prescribed

burning, is necessary if such stands are to perpetuate themselves in place, consistent with historic disturbance processes, intervals, and intensities.

HFRA's requirements [in section 102(f)] for large tree retention **outside** of old growth stands are also met in the Myrtle project. Myrtle focuses largely on small diameter trees, thinning, and prescribed fire to modify fire behavior, as measured by the projected reduction of uncharacteristically severe wildfire effects, for the forest type in the project area. The project maximizes the retention of large trees, as appropriate for the forest type to the extent that the trees promote fire-resilient stands, while still achieving the purposes of reducing wildfire risk to the municipal water supply.

This project also meets HFRA requirements for prioritization of projects (HFRA section 103) by considering recommendations made by an at-risk community that has developed a community wildfire protection plan, and by complying with NEPA in the analysis and documentation of such project. The FEIS meets HFRA requirements (section 104) for environmental analysis including the documentation; consideration of alternatives; and by encouraging meaningful public participation by facilitating the collaboration among State and local government and Indian tribes, and the participation of interested persons, during the preparation of the fuel reduction project. In addition, the project fulfills the requirements of the special administrative review process (section 105).

3. Objection resolution meeting.

The objectors requested and the Responsible Official, Forest Supervisor Ranotta McNair, was eager to hold a field trip to the project area to resolve the objections. Twenty-five persons participated in the field trip (local governments, individual citizens, representatives of environmental organizations, and Forest Service personnel). A list of the participants can be found in the project file.

Major topics of discussion included the following: sources of water for the municipal water system (Myrtle Creek, Kootenai River, and Cabinet Mountains water system); sedimentation effects from roads and activities on private land; use of the HFRA authority for this project, particularly as it relates to restoration work (road decommissioning); use of prescribed fire with and without mechanical pretreatment of the area; research conducted by Russ Graham (Rocky Mountain Research Station) on the Hayman Fire; treatments in Inventoried Roadless Areas and the rationale for those locations; perceptions on effectiveness of public collaboration; fire behavior and fire history in the Selkirk Mountains and the project area.

At the end of the trip, Forest Supervisor Ranotta McNair asked the participants to clearly express to her where they might find agreement in order to resolve the objections. The major concern was whether or not the project is in an Inventoried Roadless Area. A few suggestions were offered; however, at that time no resolutions were reached.

- Comment from the representative for The Wilderness Society: Okay with all G Units, except G9; a few little modifications are all that are needed. Units B1, B3, B4, B5, and B6 in the IRAs are not satisfactory.

- Comment from Jerry Pavia, private citizen: Okay with treatments in the IRAs in the Snow Creek drainage; against any treatment other than the use of prescribed-fire-only (no mechanical pretreatment) within the IRAs in the Myrtle Creek drainage.

- Comment from The Lands Council: Defer the Roadless Area and burn it without mechanical treatment. Prepare a Memorandum of Understanding concerning the IRAs.

- Comment from Susan Drumheller of Idaho Conservation League: Need more time for their staff to discuss and get back to the Forest Service.

- Comment from The Lands Council and Idaho Conservation League: General agreement with the treatments in the roaded part of the project area; although feel that the project is not meeting the goals because it is not dealing with enough of the roads. At some point in time, something needs to be done in the roadless areas. Suggested deferring these treatments and spend time preparing something like a Memorandum of Understanding to look at the IRAs.

After the field trip, Jonathon Oppenheimer sent an email to Ranotta McNair, the Responsible Official, and to me, the Reviewing Officer, stating Mr. Oppenheimer "would like to formally request the development of a multiparty monitoring group with relation to the Myrtle Creek HFRA Project." The Responsible official responded to him saying "this sounds like an idea I would like to pursue and I'm open to having further discussions around this topic. We will, however, first need to see if can get the Myrtle Creek proposal off the ground and moving forward. We have been doing multiparty monitoring on a project in Priest. That experience has been a good one for all the folks involved." I encourage the Responsible Official to continue the dialog with the objectors and pursue this opportunity to do monitoring with those parties interested in the Myrtle Creek Fuels Reduction Project.

This response is not subject to further administrative review by the Forest Service or the Department of Agriculture [36 CFR 218.10(b)(2)].

Sincerely,

/s/ Kathleen A. McAllister
KATHLEEN A. MCALLISTER
Reviewing Officer

cc:
Responsible Official
Forest Coordinator