

RIPLEY PROJECT – Kootenai National Forest; Libby Ranger District

Objection Responses – Alliance for the Wild Rockies

Issue 1: NEPA

Contention 1-1: Purpose and Need

The objector believes the purpose and need are illegitimate because the responsible official improperly used and defined the term “resilience” and “restoration” in order to allow for logging and road building in violation of NEPA.

Response:

Resilience and restoration are defined in the Kootenai Forest Plan, and they are not defined differently in the Ripley Environmental Assessment (EA). The project aims to improve resilience by promoting those species of trees that can better withstand wildfire, and that are less prone to insect and disease. Existing forest conditions are clearly described in the EA (pp. 14-18) and were also included in the scoping document.

Restoration of ponderosa pine and western larch on this site violates neither NEPA nor NFMA. Changing the structure by reducing ladder fuels will allow fire to occur on this wildland urban interface landscape and be less likely to result in a high-severity event. This is measurable as fire behavior modeled by the fire and fuels specialist, and disclosed in the EA (pp. 85-89).

AWR appears to misunderstand the information in the EA at the bottom of page 211 and asserts that watershed upgrade activities are optional. Funding for best management practices activities on roads is uncertain if the project *does not take place*. The first sentence of the paragraph states “If the Ripley Project is not implemented.....” Best Management Practice (BMPs) are an integral part of the proposed action and were therefore properly included in the effects analysis.

Contention 1-2: Alternatives

The objector contends that the Environmental Assessment lacks an alternative that results in a road system which is fully affordable to maintain on an annual basis within all watersheds affected by the proposal. This is in violation of NEPA and the Travel Management Rule.

Response:

As a result of comments made by the objector, the responsible official considered a ‘Reduced Road System’ alternative but did not analyze it in detail. The stated rationale for not analyzing it in detail is Travel Analysis was conducted at both the Kootenai National Forest scale (Final Travel Analysis Report for Kootenai National Forest, September 30, 2015) and for the Ripley project analysis, as required by 36 CFR 212.5 (b)(1). These efforts, particularly the Ripley Project Travel Analysis, consider and address road-related concerns raised by the objector. The Ripley Travel Analysis is documented in a Travel Analysis Report (TAR) (project file, Ripley_TravelAnalysisReport_20200317.pdf). It states that the goal of the analysis is to provide decision makers with information to develop road and trail systems that are safe and responsive to public and agency needs and desires, are affordable and efficiently managed, have

minimal negative ecological effects on the land, and are in balance with available funding for needed management actions (TAR, p. 4). These goals are what the objector requests.

Step 4 of the 6-step Travel Analysis process described in Forest Service Handbook (FSH) 7709.55 requires evaluating environmental, social, and economic effects from the Forest's travel route system. The result of the project specific travel analysis are the road activities included in the proposed action.

I find the responsible official considered the proposed alternative in compliance with NEPA and Forest Service direction.

Contention 1-3: Disclosure

The objector argues that the Responsible Official inadequately disclosed impacts and ignored requests for information and analysis regarding project conditions that would help the public better understand the context of the project. He contends the result is erroneous analysis in violation of NEPA.

Response:

The regulations implementing the National Environmental Policy Act emphasize inclusion of information that is useful to the decisionmakers and the public, and reduces emphasis on background material (40 CFR 1502.16). NEPA documents are to concentrate on the issues that are relevant to the action in question, rather than amassing needless detail.

While much of what the objector requested was included in the EA and a response to comments was provided (published on the Kootenai Forest public website), objector's August 31, 2019 letter was not in fact received before the end of the comment period, as provided in the legal notice published on July 30, 2019. A landscape analysis is not a required component of project planning, and not necessary to this project focused on the wildland urban interface area adjacent to the town of Libby, Montana.

The analysis included in the EA is more than adequate for the scope of the proposal.

Contention 1-4: Cumulative Effects

The objector contends that the Responsible Official violated NEPA by completing an inadequate cumulative effects analysis that did not incorporate recent monitoring data.

Response:

Impacts of the action are considered in conjunction with past, present, and reasonably foreseeable actions. Each stand was visited by resource specialists to assess its current condition and need for fuel reduction or vegetative treatment to meet restoration objectives (EA p. 59). In accordance with the National Forest Management Act, all prior regeneration harvest was monitored and certified as stocked (p. 73). Soils within proposed treatment units were monitored for detrimental soil disturbance, as disclosed on page 166. Existing condition of the project area is the culmination of all previous activity, natural or man-made.

The methodology for each effects analysis is disclosed (either in the EA or in the project record), and some include monitoring data along with field visits, modeling, inventory and survey data, consideration of scientific literature, and geographic information system data. While forest-wide monitoring data may be informative, it is not expressly required by NEPA.

I find the cumulative effects analysis in the EA is adequate to determine the finding of no significant impact.

Contention 1-5: Scientific Integrity

The objector contends that the Responsible Official violated NEPA by not insuring the validity and reliability of data to complete analysis and make conclusions.

Response:

This concern was not raised during the opportunity to comment (project file, Response to comments, p. 5), therefore this issue is set aside from review in accordance with 36 CFR 218.10 (a)(4).

Issue 2: Climate Change and Resilience

Contention 2-1: Climate Change Analysis on Vegetation

The objector contends that the climate change effects analysis on project area vegetation is limited and does not properly anticipate regeneration response in violation of NEPA and NFMA.

Response:

A stated purpose of the project is to promote resilient vegetation conditions. That would include resiliency to a warmer and drier climate. Douglas-fir and grand fir are not drought tolerant tree species. Ponderosa pine and western larch are. Prescriptions for vegetation treatments are written by certified silviculturists, who take multiple factors into consideration. All treatments have some level of tree retention, which will ameliorate harsh conditions. The responsible official must comply with the NFMA mandate to ensure the ability to restock harvested stands within five years.

The climate change discussion in the Ripley EA discloses that a climate change assessment conducted in 2010 synthesized the most recent scientific information regarding how future climate change might impact forest resources and disturbance processes on the Kootenai National Forest. The assessment report predicts a 2.2 degree Fahrenheit increase in temperature by the 2020s and a 3.5 degree increase by mid-21st Century with the greatest increases in the summer season (p. 67). Climate change occurs at a much larger scale than the project area, and as noted in the EA, project scale analysis addresses site specific forest health, wildlife habitat, and hazardous fuels conditions, trends, and risks that currently exist within the project area. The EA states that activities in the proposed actions are consistent with adaptation actions and strategies recommended for managing forests in light of climate change (Millar et al. 2007, Joyce et al. 2008, Ryan et al. 2008a)." (Ibid.)

The Ripley Project Carbon and Climate Report in the project file states that the top three anthropogenic sources of greenhouse gas emissions are fossil fuel combustion, deforestation, and agriculture. Loss of tropical forests of South America, Africa, and Southeast Asia is the largest source of land-use change emissions (Denman et al. 2007, pg. 518; Houghton 2005). Land use change, primarily the conversion of forests to other land uses (deforestation) is the second leading source of human-caused greenhouse gas emissions globally (Denman et al. 2007, pg. 512). (p. 2)

The proposed action is not the type of activity nor at the scale of these primary contributors of global greenhouse gas emissions. As stated in the Carbon and Climate Report "The affected forests would remain forests, not converted to other land uses, and long-term forest services and benefits would be maintained." (p. 3)

I conclude the responsible official adequately addressed climate change and its effect on the project area. The purpose and need of the proposed action were also adequately presented and discussed in compliance with NEPA and NFMA.

Issue 3: Travel Management

Contention 3-1: Travel Management Rule Consistency

The objector contends that the Responsible Official is in violation of NFMA, NEPA, and the Travel Management Rule by:

- Not proposing the right-sized road network/the minimum road system in violation of the Travel Management Rule.
- Failure to show consistency with the Travel Management Rule 36 CFR 212 Subparts A, B, and C.

Response:

Subpart A of the Travel Management Rule (Rule, 36 CFR 212), *Administration of the Forest Transportation System*, does not require the responsible official to “designate the minimum road system” but rather to *identify* the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands. The rule also includes a requirement to identify the roads no longer needed to meet forest resource management objectives (36 CFR 212.5 (b)(1)). As stated in Forest Service Manual 7700, travel analysis informs decisions; travel analysis is not a decision-making process, therefore NEPA procedures don’t apply to Subpart A.

The responsible official conducted travel analysis of the transportation network within the project area to inform the travel management decisions included in the proposed action (EA, p. 31). Findings and recommendations from the analysis are documented in the Ripley Travel Analysis Report (TAR) in the project file. The report includes identification of the potential minimum road system, including roads no longer needed. (TAR, Table 4, pp. 40-46; TAR Map F, p. 47; TAR, Appendix A)

Subpart B of the Rule, *Designation of Roads, Trails, and Areas for Motor Vehicle Use* is the relevant section of the Rule for proposed changes to National Forest System (System) motorized routes. NEPA procedures apply to proposed actions involving changes to System road and trails designations. Both NEPA and the Rule (36 CFR 212.55 (a)) require the responsible official to consider effects. In addition, for the designation of National Forest System Trails and motorized areas, the Rule requires the responsible official to consider these effects with the objective of minimizing effects listed at 36 CFR 212.55 (b).

The effects of the proposed changes to motorized routes are disclosed in the EA throughout the *Environmental Impacts of the Proposed Action* section (pp. 53-232). Minimization criteria were evaluated and applied to the four miles of proposed motorized trail as required by Subpart B of the Travel Management Rule. Documentation of how the proposed action meets the criteria is in the project file (document Ripley_OHVTrail_MinimizationCriteria_20200501.pdf).

I find the responsible official complied with requirements in the Travel Management Rule. Subpart C of the Rule applies to over-snow vehicle designation which is not proposed in this project.

Contention 3-2: Road Activities and Forest Plan Compliance

The objector contends that the Responsible Official is in violation of NFMA, NEPA by:

- Failure to comply with Forest Plan objective FW-OBJ-AR-03 regarding road maintenance in the project area.
- Failure to comply with INFISH Forest Plan Standard #RF-2 to develop a road management or a transportation management plan.

Response:

A project or activity is consistent with the objectives of the Forest Plan if it contributes to or does not prevent the attainment of any other applicable objectives (36 CFR 219.15 (d)). The Kootenai National Forest Plan objective FW-OBJ-AR-03 mentioned by the objector says:

Annually, meet maintenance level requirements on 20 to 30 percent of Operational Maintenance Level 3, 4, and 5 roads (roads that are drivable by passenger vehicles and provide primary access to many recreation opportunities).

- Annually, meet maintenance level requirements on 10 to 20 percent of Operational Maintenance Level 2 roads (roads that are drivable by high clearance vehicles and provide additional access to recreation opportunities).
- Over the life of the Plan, decommission or place into intermittent stored service 150 to 350 miles of road. (Forest Plan, p. 35)

The Ripley Project Transportation Report in the project file (document Ripley_TransportationManagementSpecialistReport_DraftFinal_20200427.pdf) discloses the relevant forest plan components for road activities in the proposed action and how they are met (pp. 5-7). The proposed action includes haul-road maintenance on 93 miles of NFS road and decommissioning of approximately 0.25 miles of NFS road. These actions would contribute to the purpose and need of the project as well as to forest plan objective FW-OBJ-AR-03 (EA, p. 232).

Regarding compliance with the Inland Native Fish Strategy (INFISH) requirement to develop a road management or a transportation management plan, the revised Kootenai National Forest Plan (2015) incorporates INFISH direction through forest plan standard FW-STD-RIP-03. The description of that standard clarifies that “These INFISH “standards and guidelines” are defined as standards: TM-1, MM-3, MM-4, MM-5, and RA-4. All others are defined as guidelines” (Kootenai Forest Plan, p. 26) therefore “Forest Plan Standard #RF-2” to which the objector refers is a guideline.

The Access Management Plan in Appendix C of the EA discloses the management of each road during and post-project based on its existing condition, the timing and reason for the action, and who will complete the action (pp. 260-269). This information will inform development of a road management plan.

I find the responsible official properly disclosed how the proposed action complies with the Kootenai Forest Plan in compliance with MFMA.

Contention 3-3: Road Activities and NEPA Compliance

The objector contends that the Responsible Official is in violation of NFMA, NEPA by:

- **Failure to comply with 40 CFR 1502.24 regarding methodology and scientific accuracy and integrity.**
- **Failure to account for motorized use in analysis in violation of NEPA.**
- **Re-entering previously stored and decommissioned roads and not accounting for them in roads inventory in violation of multiple laws.**

Response:

The objector alleges a violation of NEPA “in terms of methodology, scientific accuracy, and scientific integrity” but does not tie it, directly or indirectly, to specific scientific methods, models, or data used in the Ripley analysis.

Please see response to Contention 3-1. The effects of motorized use were analyzed and addressed through the Ripley Travel Analysis Process and documented in the TAR. Effects of motorized use are also addressed in the EA throughout the *Environmental Impacts of the Proposed Action* section. The existing condition of resources affected by proposed activities includes the effects of both legal and illegal use. The TAR states, “There have also been multiple user-created routes for ATV use on the landscape that link many of these open and restricted roads.” (p. 30)

The objector also says, “It’s clear that the FS is making it standard practice to re-use such abandoned road templates— and even roads actively decommissioned — not including them on the official road inventory therefore constantly avoiding responsibilities, regulations, and forest plan requirements for roads.” Re-entering decommissioned roads is not proposed in the Ripley EA. The TAP describes the process of decommissioning as “the act of removing a road from the road system. The 2015 Forest Plan requires that roads being decommissioned are to be left in a hydrologically stable condition (posing minimal risk of watershed impacts).” (p. 48) The EA says, “Proposed harvest would require temporarily opening about 5 miles of currently stored road for timber access and haul; these roads would be returned to a stored condition post-project.” (p. 34) Roads in intermittent storage are on the System but are not needed for land management in the short term. They are stored (closed) until needed again at some future time.

I find the responsible official complied with NEPA.

Issue 4: Vegetation

Contention 4-1: Old Growth Analysis

The objector contends that the Responsible Official inadequately determined the amount and structure of large live and dead trees used for wildlife analysis in violation of NEPA.

Response:

This concern was not raised during the opportunity to comment (project file, Response to comments, p. 5), therefore this issue is set aside from review in accordance with 36 CFR 218.10 (a)(4).

Issue 5: Wildlife

Contention 5-1: Big Game

The objector makes multiple NEPA violation claims regarding analysis of big game and its habitat.

- **Lack of data supporting the need for improving big game winter range and forage production.**
- **No credible analysis since the agency is unable to effectively prevent motorized traffic in closed areas.**
- **Lack of cumulative effects analysis for recreational activities on elk**

Response:

This concern was not raised during the opportunity to comment (project file, Response to comments, p. 5), therefore this issue is set aside from review in accordance with 36 CFR 218.10 (a)(4).

Contention 5-2: Grizzly Bear

The objector contends that the Responsible Official is in violation of NEPA, NFMA, ESA by:

- **NEPA and ESA:** Lack of consultation documentation with the US Fish and Wildlife Service and the Responsible Official available to the public for the objection.
- **NEPA:** The Responsible Official has not adequately monitored illegal use regarding road closures in violation of the Access Amendments.
- **Forest Plan/NFMA:** The project area is not within a BMU or BORZ however there is a recent occurrence of three male grizzlies in the last 5-7 years. It's a violation of the Forest Plan not to establish a BORZ when there are 3 or more grizzly bears in a new area.
- **ESA and NFMA:** The Forest Service is not allowed to make a decision regarding the project because Forest Plan consultation on the Access Amendments is not complete.
- **NEPA:** The Responsible Official is incorrect to assume grizzly bear habitat will increase due to an increase in food (huckleberry) after project treatments. Further, he is incorrect because the treatments will cause increased grizzly bear mortality due to increased human interaction.

Response: This concern was not raised during the opportunity to comment (project file, Response to comments, p. 5), therefore this issue is set aside from review in accordance with 36 CFR 218.10 (a)(4).

Contention 5-3: Wolverine

The objector contends that the Responsible Official has violated the Endangered Species Act by not completing consultation, formal or informal, with the US Fish and Wildlife Service on the wolverine, which is proposed for listing under ESA since 2013.

Response: This concern was not raised during the opportunity to comment (project file, Response to comments, p. 5), therefore this issue is set aside from review in accordance with 36 CFR 218.10 (a)(4).

Issue 6: Noxious Weeds

Contention 6-1: Noxious Weeds Analysis

The objector contends that the Responsible Official did not disclose the impacts of noxious weeds in violation of NEPA. They assert an EIS should be completed.

Response: The analysis in the EA discloses the effects of the proposed action on the human environment. Noxious weeds are part of the existing condition of the analysis area, and the effect of their presence on native vegetation and wildlife is described (EA, p. 155). They are primarily limited to roadsides and along trails. The EA discloses that known populations have been treated with herbicide from 2014 through 2019 on 167 acres within the 29,180-acre project area (p. 156).

Reducing the likelihood of their spread is part of the design criteria for the Ripley Project, including timber sale provisions that include cleaning harvest machinery before it may enter the forest. Monitoring and continuing herbicide treatments are part of the design features (*ibid* pp. 40, 49, 156, 159). These measures all support the finding that “proposed activities support a low risk for new weed invaders to establish and moderate risk for spread of existing weed populations.” (p. 160).

With the existing population of noxious weeds at 0.5 percent of the project area, the moderate risk of spread and the low risk of introducing new weed invaders does not constitute a significant impact. An EIS is not needed and there is no violation of NEPA.

Issue 7: Economics

Contention 7-1: Economic Analysis

The objector contends that the Responsible Official violated NEPA by not addressing the economic impacts the high cost of project activities would create. Objectors further stated that the Responsible Official did not show an itemized cost for project activities including other costs that would result after carrying out project activities.

Response: This concern was not raised during the opportunity to comment (project file, Response to comments, p. 5), therefore this issue is set aside from review in accordance with 36 CFR 218.10 (a)(4).

Issue 8: Issues Outside the Scope of the Project

Contention 8-1:

The objector raised objections to a number of issues that are not specific to the proposed project as required by 36 CFR 218.8 (d)(5)

- **Unlawful Forest Plan**
- **Roadless and unroaded area determinations in the Forest Plan**

Response: Objection regulations direct that issues raised in objections must be based on previously submitted specific written comments regarding the *proposed project or activity* and attributed to the objector (36 CFR 218.8 (c)). Therefore, these issues are outside the scope of this review. No further response is warranted.

File Code: 1570 (218)
Date: July 30, 2020

Dear Mr. Garrity,

This letter is in response to objections filed on the Ripley Environmental Assessment (EA) and Draft Decision Notice released by Chad Benson, Forest Supervisor of the Kootenai National Forest. I have read your objections and reviewed the project record. My review of your objection was conducted in accordance with the administrative review procedures found at 36 CFR 218, Subparts A and B.

ADMINISTRATIVE REVIEW PROCESS

The regulations at 36 CFR 218.8 provide for a pre-decisional administrative review process in which the objector provides sufficient narrative description of the project, specific issues related to the project, and suggested remedies that would resolve the objections.

RESPONSE TO OBJECTIONS

As specified at 36 CFR 218.11(b), I must provide a written response to your objections; however, this response need not be point by point. The review of your objection issues is included as an attachment to this letter and will be posted on the project website.

District Ranger Nate Gassmann initially reached out to you on my behalf regarding having an objection resolution meeting, however upon review the issues you indicated wanting to discuss are not specific to the Ripley Project. Therefore, I have decided not to offer an objection resolution meeting for this project, though I have encouraged Forest Supervisor Benson and Ranger Gassmann to continue their conversations with you about your areas of concern.

CONCLUSION

My review finds the project is in compliance with all applicable laws and the Kootenai National Land Management Plan (2015). The Forest Supervisor may sign the Decision Notice for this project. My review constitutes the final administrative determination of the Department of Agriculture; no further review from any other Forest Service or Department of Agriculture official of my written response to your objection is available [36 CFR 218.11(b)(2)].

Sincerely,

KEITH LANNOM
Deputy Regional Forester

Enclosure

cc: Chad Benson, Nate Gassman, Mandy Rockwell, Janis Bouma, Kim Smolt, Karen Dulap,
Olga Troxel

