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KOOTENAI NATIONAL FOREST

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FOREST PLAN REVISION PROCESS PUBLIC MEETING

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Libby Memorial Events Center
111 East Lincoln Boulevard
Libby, Montana

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Wednesday, April 30, 2014

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Barb Beck - Meeting Facilitator

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20 FOREST SERVICE PERSONNEL:

21 Jim Pena - Associate Deputy Chief, National Forest System

22 Faye Krueger - Regional Forester, Northern Region

23 Pam Gardner - Acting Forest Supervisor; Kootenai National
Forest

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1 MS. GARDNER: Welcome, everyone. I am Pam
2 Gardner, the Acting Forest Supervisor here on the
3 Kootenai National Forest. I've been here since February
4 and will be finishing up my detail here on the Kootenai
5 the end of May. The new forest supervisor has been
6 selected, and that's Chris Savage, and he will be coming
7 into his new job the first part of June.

8 We want to thank you for your engagement and
9 interest in the Kootenai National Forest and, in
10 particular, in this Forest Plan Revision process. I know
11 many of you know a lot more about this Forest Plan than I
12 do, and I'm looking forward to listening and learning
13 today. I also want to thank the Washington office,
14 regional office and our forest staff for the preparation
15 and work they've put into putting this meeting together
16 today. So thank you all; again, appreciate you being
17 here.

18 We'd like to start out with a round of
19 introductions. And if the Objectors and the Interested
20 Parties would please introduce themselves, we'll start
21 with that. So can we start with this table over here?

22 MR. WEST: Kurt West. I'm a Eureka
23 Objector on the Forest Plan.

24 SENATOR FIELDER: Senator Jennifer Fielder,
25 District 7. And my husband is an Objector, Paul Fielder.

1 He's on the line. He just called and said they can't
2 hear. Yesterday I called in as an Objector, and we
3 couldn't get on to be heard for an hour and a half.

4 MS. GARDNER: We'll take care of that;
5 thank you.

6 MR. BARQUIN: Billy Barquin. I'm with the
7 Kootenai Tribe of Idaho. And we are an Objector and
8 Interested Person.

9 MR. HANSON: John Hanson representing the
10 Montana Loggers Association.

11 MR. MCKENZIE: Paul McKenzie with F.H.
12 Stoltze Land & Lumber Company, an Objector.

13 MR. HOUGH: Phil Hough, Friends of
14 Scotchman Peaks Wilderness.

15 MR. BOWSER: Matt Bowser, I'm with the Yaak
16 Valley Forest Council, and we are Objectors and
17 Interested Parties.

18 REPRESENTATIVE CUFFE: Mike Cuffe, Citizen,
19 Eureka Montana, Objector. Also Representative House
20 District 2 of Montana which covers Eureka and rural
21 Lincoln County and a very big part of the Kootenai
22 National Forest.

23 COMMISSIONER BERGET: Tony Berget, Lincoln
24 County Commissioner, Objector.

25 MR. HADDEN: Dave Hadden, Headwaters

1 Montana, Objector and Interested Party.

2 MR. BUTTS: Todd Butts. I'm representing
3 McKinley Raines as his proxy, and I'm also an advisor to
4 several of the Objectors here.

5 MS. ROBINSON: Amy Robinson representing
6 Montana Wilderness Association as well as The Wilderness
7 Society, and in some cases Headwaters Montana, Objector
8 and Interested Party.

9 MR. VOYLES: Jim Voyles, Ten Lake
10 Snowmobile Club, Eureka, Montana, here as an Objector.

11 MR. LETCHER: Josh Letcher, Objector and
12 Interested Party.

13 MR. BANEY: Scott Baney, Objector to the
14 Forest Plan.

15 MR. DINNING: Dan Dinning, Boundary County
16 Commission.

17 MR. COLBURN: Kevin Colburn with American
18 Whitewater, also an Objector.

19 MR. CURTISS: Steve Curtiss, Glen Lake
20 Irrigation District, Objector and Interested Party.

21 MR. TROCHMANN: John Trochmann, Sanders
22 Natural Resource Council.

23 MR. HINKLE: Greg Hinkle, former State
24 Senator Thompson Falls, Objector.

25 REPRESENTATIVE WHITE: Kerry White. I'm

1 one of the executive board members of Citizens for
2 Balanced Use. We're an Objector. We represent about a
3 hundred thousand people in the State of Montana. I'm
4 also Representative Montana House District 70, Four
5 Corners to West Yellowstone, south end of Gallatin
6 County.

7 MR. PIERSON: Robert Pierson, Vice-Chairman
8 Sanders Natural Resource Council.

9 MS. PIERSON: Carolyn Pierson, Secretary of
10 Sanders Natural Resource Council.

11 MR. MATTHEIS: Scott Mattheis, Montanans
12 for Multiple Use, North Lincoln County Chapter.

13 MR. DOWNEY: Ron Downey, Lincoln County
14 Commissioner, Objector.

15 MR. COLE: Mike Cole, Lincoln County
16 Commissioner, Objector.

17 MR. SOULTS: Scott Soult, wildlife
18 biologist for the Kootenai Tribe of Idaho, also Objector
19 and Interested Party.

20 MR. ABRAHAM: Ron Abraham. I'm Tribal
21 Council, Kootenai Tribe of Idaho.

22 MR. HUNT: Bruce Hunt, Interested Party,
23 retired research scientist, Thompson Falls.

24 MS. MEHAFFIE: Nancy Mehaffie, Interested
25 Party, retired Forest Service and DOD.

1 MR. FERRELL: Doug Ferrell, Interested
2 Party.

3 SENATOR VINCENT: Chas Vincent, Senate
4 District 1.

5 COMMISSIONER FOSS: Suzy Foss, Interested
6 Party, Ravalli County Commissioner.

7 MR. WIMER: Ken Wimer, Interested Party,
8 property owner in the Yaak.

9 MS. GARDNER: Thank you, everyone. Well,
10 again, welcome, and we look forward to the day with you.
11 I'm going to hand off to our facilitator Barb Beck.

12 MS. BECK: Sorry, this is a little bit
13 awkward. We do have some folks that are joining us, or
14 attempting to join us, on the phone. And to those of you
15 on the phone, I apologize that you weren't able to hear
16 the introductions in the room. And if we have folks on
17 the phone, would you introduce yourselves at this time?
18 Yoo-hoo. We're going to keep working on the phone.

19 MS. MCDUGALL: They can't hear you. We'll
20 work with the folks here in the building. There needs to
21 be a speaker or something over there to feed that phone
22 because they can't hear us.

23 MS. BECK: Okay; all right. Maybe
24 you -- can you assist them?

25 Okay; so my name is Barb Beck, and I'm a

1 facilitator. So my job is to keep us on track with the
2 agenda and make sure that the time of everybody here is
3 spent productively today. So that's my job. And I am
4 certainly not an expert on any of these issues nor anyone
5 that if you lobby me you won't get any results at all.
6 So I'll just make that clear off the bat. So the
7 outcome -- oh, yeah.

8 And if you would be so kind as to turn your
9 cell phones down or vibrate so they're not disrupting us,
10 that would be appreciated.

11 So let me just walk you through how we're
12 proposing to spend today and how we hope the outcome of
13 that will be.

14 First of all, we want the attendees, and that's
15 everyone, me, you guys, the Forest Service people, to
16 understand the planning and review process and how the
17 review was conducted and the status of where things are
18 in that process and also how information from this
19 meeting will be used in the final decision. We want to
20 make sure that folks are aware of the range of issues
21 that were brought forward, even though we're going to be
22 focusing on just a small number of those today. We want
23 to make sure you have the chance to validate how the
24 reviewing officer, Jim Pena, sitting next to me -- and I
25 guess we didn't introduce the head table.

1 Pam Gardner introduced herself. Faye Krueger
2 is our Regional Forester in Missoula, and Jim Pena is
3 here from Washington, D.C. And he's the Associate Deputy
4 Chief for the National Forest System. So he is the
5 reviewing officer.

6 We want to make sure that you have a chance to
7 clarify how he understands what your objections or your
8 issues are. And then we want to give you an opportunity,
9 if there are those of you who wish to work on an issue
10 further and be a lead in that discussion, which would
11 have to occur relatively quickly, to then provide some
12 more clarity to the Forest Service as we work through
13 some of those objections. So that's what we hope to
14 accomplish by the end of the day today.

15 So the way the day is structured, is we'll give
16 you a little bit of background on the planning and
17 objection review process, and then we're going to go into
18 four major topics. And Jim will explain why these topics
19 were chosen. The first will be Coordination with
20 Counties; the second, Wild and Scenic Rivers; the third
21 one, Recommended Wilderness and Wilderness Study Areas
22 and; the last one, Management Indicator Species. So
23 those are the four topics that we're going to focus on
24 today. And then under each topic will be a chance for
25 you to hear how the Forest Service is understanding what

1 your objections are and then for your feedback if
2 that's -- if he's captured that accurately or not. We're
3 going to talk about what the Forest Service sees as a way
4 to move forward on those and give you a chance to react
5 to that and tell you if there's a way for you to suggest
6 improvements to what the Forest Service is proposing to
7 do with your objections. So we'll do that for each of
8 those four topics.

9 Okay; so a couple of ground rules. I put them
10 up here and I joked yesterday I wrote them too small for
11 you to read. But that wasn't on purpose. So what they
12 say is: Please conduct yourself professionally and
13 courteously, listen and speak with respect, stick to the
14 current topic, one person speaks at a time. Share
15 relevant ideas, that's why we're here, and challenge
16 ideas not individuals and organizations. So I would like
17 to ask you to abide by those ground rules. And I'm here
18 to enforce them, in the effort of making our day the most
19 productive possible.

20 Okay; and next to me here is a court reporter
21 who's transcribing this. And so everything you say will
22 be on the record. Our whole proceedings today will be on
23 the record. And she will produce a transcript, and that
24 will be posted on the forest website. That's how you'll
25 have access to that. So that will be available as soon

1 as possible, but it will be a little while so that it's
2 accurate.

3 So that means that -- I know it's a little
4 awkward -- you're going to have to be speaking into a
5 microphone and give your first and last name each time.
6 And so we have these two microphones up here. You're
7 going to have to come to a microphone to speak. And I
8 apologize if that seems a little bit awkward, but that's
9 how we need to do it so we can capture your remarks.

10 So when we get into these topics, I'll explain
11 how the discussion will occur with Objectors speaking and
12 Interested Parties. And the public, we do value you
13 being here, and this is an opportunity for you to listen
14 to the proceedings. But the folks up here, the Objectors
15 and Interested Parties have engaged formally with the
16 Forest Service as far as submitting comments and being
17 involved through the process. And so they're the ones
18 that get to speak at today's meeting. It's not intended
19 to be a public forum. It's open to the public, but it's
20 not a public forum.

21 Okay; with that, I think I'll turn it over to
22 Faye Krueger, our Regional Forester.

23 MS. KRUEGER: All right; thank you very
24 much.

25 I wanted to start out thanking everybody for

1 attending today and the attendance and involvement that
2 you've had over the last twelve years with that Forest
3 Plan Revision. Yesterday we met in Coeur d'Alene. And
4 as you're aware, we called the planning process the KIPZ
5 process. And it's the Kootenai and Idaho Panhandle Zone.
6 And so yesterday we started something very historic, and
7 you're part of that today which is the first objection
8 process for Forest planning. So what we've done for the
9 first time is gone through an objection process versus an
10 appeal process. And what we learned yesterday is we have
11 a lot of transparency, we have a lot to clarify, we're
12 getting a lot of input, and we find that very valuable.

13 The Panhandle and the Kootenai National Forest
14 started their Plan Revision about twelve years ago. You
15 go Twelve years, wow. Well, we've had several planning
16 rules that haven't even been to court. And so it sent
17 the Forest back to re-engage, do things again, and you've
18 been part of that. And I just wanted to thank you for
19 that. So this has been a long road for our team, and
20 we're really excited to look forward to the Draft Record
21 of Decision and the objection process and to move
22 forward.

23 The Forest had a choice several years ago on
24 whether they wanted to go through the appeal process or
25 the objection process. And I just wanted to share that

1 they did select the objection process, and it continued
2 that public involvement and collaborative-type approach
3 to doing our planning. And you're all part of that. And
4 again, this is the first time we've tried it here this
5 week.

6 So what do you do when you make a decision on
7 the Plan when there's such opposing views? As you're
8 aware, we cannot satisfy everybody. And that's what
9 today is about. We're seeking further solution. And
10 what you'll hear from Jim is, you know, looking at all
11 the objections, looking at some of the remedies, what he
12 understood, and then what he heard in those remedies and
13 what the best choice may be to move forward. But that's
14 part of what we want to do today is get that solution;
15 what are the solutions to the Kootenai Forest Plan? How
16 can we move forward?

17 When the decision was made, we used the best
18 available science. It wasn't solely ecologically based.
19 We used economic and social concerns as well. And those
20 are the factors, I think, that we're going to be talking
21 about more today, because we do have different ideas of
22 what the decision should be.

23 The planning team held more than 30 public
24 meetings, had several field trips and more than 100
25 community-based workshops over ten years. And the

1 meetings identified the core values from the communities
2 and from neighbors and from a national level. We balance
3 a national interest as well as local interest when making
4 a decision. And the revised Forest Plan is influenced by
5 the feedback that we receive from everybody. And so I
6 want you to know that we listened to the state, locals,
7 stakeholders, and counties and made sure we captured all
8 the issues and alternatives and had the highest degree of
9 transparency possible as we moved forward with this Plan.

10 We also looked at what we call an all-lands
11 approach where we looked at what's happening to our
12 neighbors. What does that look like? We looked at our
13 management area prescriptions, and we wanted to make sure
14 that they were in balance with the Idaho Roadless Rule,
15 the state forest assessment and state wildlife
16 assessment. And so we continue and will continue to
17 coordinate with county commissioners, stakeholders and
18 congressional delegations to make sure in our
19 implementation that we're complementing our partners as
20 well to the best of our ability when we look at
21 ecological health across the boundaries.

22 And so through the process we've consulted with
23 seven federally recognized American Indian nations and,
24 again, wanted to ensure compatibility with their concerns
25 on National Forest System lands.

1 So given the review process, I think it will
2 help us get to a better final decision. And what will
3 happen, and Jim will explain that in more detail, is
4 he'll listen to everything, make sure he has clarity on
5 that, and he will give me direction on what to do for a
6 final decision or any additional process that needs to
7 occur. So my role today is to make sure that I
8 understand the issues, I understand what's being heard,
9 and when Jim gives me that final direction, that I
10 implement it with the forest supervisor and the forest
11 planning team. So that's what we'll be doing here in the
12 future. So that will be my role today.

13 I did also want to share that our forest team,
14 when they did their work, they sent it to the regional
15 office to review. They've been to the Washington office
16 and the department several times to brief them and let
17 them know what was going on and get any feedback
18 internally that they needed to have. So what happens
19 with the objection process is we have an independent
20 review at the Washington office level. And basically we
21 have new, fresh eyes looking at What did we say? What's
22 in the record? And where do they see where we're at and
23 where we need to go? So that's a little background of
24 where we started and where we're at today.

25 MR. PENA: Thanks, Faye.

1 So welcome. Thank you for being here. It's a
2 pleasure to have a chance to get out of D.C. and get
3 closer to the field anyways. I saw some of it driving
4 here last night.

5 And I am looking forward to today's discussion.
6 Looking forward to hearing from each of you to help me
7 better understand the issues that we're going to be
8 discussing today.

9 A little bit about my background. I've been
10 with the Forest Service for well over thirty-five years
11 now. Most of my career has been spent on the West Coast
12 between Oregon, Washington and California Ranger
13 Districts in the National Forests and touring the
14 regional office in California as a state and private
15 deputy regional forester, as District Ranger in eastern
16 Oregon and eastern Washington in small communities. I
17 worked in a lot of ranger districts primarily as a
18 forester doing all kinds of forester stuff.

19 And so my connection with the small communities
20 and the importance of the Forest Service in small
21 communities and local economies, I believe I have a good
22 appreciation for that. Worked closely with the folks in
23 Burns and Hines, Oregon when I was district ranger there,
24 on economic development opportunities when we had the
25 1990 Farm Bill. So I had a chance to work with some

1 counties and economic development organizations that were
2 trying to help small communities transition. It's a
3 difficult thing.

4 And I can tell from looking around town last
5 night the economy in this area has gone through,
6 obviously, some significant changes over the years. And
7 it's something that is important for all of us to
8 consider working for the Forest Service, federal
9 government, and see what we can do to continue to support
10 the local areas that we're embedded in. Our employees
11 live in the communities. The land is connected. There's
12 no way to get around it. And so it's important for us to
13 be able to hear what we -- what you guys are concerned
14 about.

15 Could you turn this down just a little bit,
16 please?

17 It's important for us to hear from you today
18 what is specific to this area. Because every area is
19 different. And it's important that we catch the nuances.
20 And so that, to me, is the value of coming out here and
21 being able to meet with folks that work with the land
22 here on a regular basis, live in the communities. And
23 hopefully by having that discussion and dialogue and
24 exchange, we can find out how to move forward together in
25 the best way possible.

1 So some expectations that I have for the
2 meeting today. We've had a chance to review all of the
3 Objections that we received on the Kootenai Plan. We've
4 had a chance to, both Faye and I, work together on
5 hearing and reviewing the Objections. We had a staff of
6 specialists in the regional office, senior experts on the
7 disciplines that were related to the issues that were
8 brought up in your Objections. And we were able to go
9 through and evaluate which of those we really needed to
10 have some more discussion with folks on the ground to be
11 able to make sure we would come up with the best remedy
12 possible. And so that's how we came to the point of
13 these four particular ones. In my view, these were ones
14 that I felt I could benefit from more discussion with
15 folks on the ground. And I felt that we had enough
16 decision space to see how we could better reflect the
17 concerns that were being expressed through the
18 Objections. And so that's what we wanted to do today is
19 try and work through that.

20 And so the meeting today is going to hopefully
21 focus on the remedies that I'm considering related
22 specifically to County Coordination, Wild and Scenic
23 River Eligibility Determination, Recommended Wilderness
24 and Wilderness Study Areas, and Management Indicator
25 Species.

1 I want to ensure that I correctly understand
2 concerns raised by the Objectors. So during the meeting,
3 the Objectors will have an opportunity to clarify my
4 understanding of the objection topics on today's agenda
5 and suggest improvements to my proposed remedies for
6 those objection topics.

7 Interested Persons will have the opportunity to
8 add any additional suggestions beyond what's already been
9 presented by the Objectors. So one of the things that
10 I'm looking for is not restating the objections. The
11 objections were all well prepared, and we've gone over
12 those very closely. And so I don't -- I'm not going to
13 benefit from having those restated. I am going to
14 benefit from once I go through each of these issue
15 papers, is hearing from you and saying if I got it right.
16 And so correcting me or making additional comments that
17 would help me better understand the nuances of your
18 objections is what I'm thinking is going to be most
19 beneficial. And that seemed to work well yesterday.

20 And then as I go through the remedies, if the
21 proposed remedy and the discussion that we have around
22 that remedy with everybody allows us to get to a place
23 where that remedy is something I'm able to go forward
24 with, then that's where we'll go. If it looks like
25 there's more work that needs to be done and there are

1 Objectors that are interested in proposing or developing
2 a different remedy for the issue, then I will consider
3 having a work group forum to deal with that. And that
4 would be somebody that -- working groups would be focused
5 on what a remedy should look like for the particular
6 issue. It would be comprised of Objectors that we pick,
7 see what Objector's interested in leading that group, be
8 formed up by Interested Parties. And then the lead
9 Objector would be responsible for pulling that group
10 together, trying to come up with a, I guess, best
11 consensus remedy, and then we'd expect to have that
12 submitted back to me within a certain time frame in a
13 written format. And then we could use that as
14 consideration for how I finalize my appeal -- or my
15 objection decision letter.

16 At the end of the day, what I'm going to be
17 doing is writing a letter to Faye that basically lets her
18 know how I came out on all the objections that were
19 submitted. And so potential options are an issue was
20 pretty straightforward, the Plan dealt with it right on,
21 the objection didn't have merit and I'm not going to ask
22 her to do anything different.

23 The alternative to that is the objection raised
24 some valid points and I'm going to ask them to go back
25 and make some adjustments and we'll go from there.

1 And then there will also be some remedies that
2 are more detailed, and that's why I wanted to deal with
3 these with this group today, because these issues appear
4 to be more difficult to sort through and remedy might be
5 and have -- may have implications for broader activity
6 to -- before we get to a final decision.

7 I want to remind everybody that we haven't made
8 a decision yet. We have a final Environmental Impact
9 Statement. We submitted out a Draft Record of Decision
10 that kind of signaled where we would go. But we don't
11 have a decision. And so the decision letter I send back
12 to the Region will be framing up how we will reach a
13 decision based on how we ended up with the objections.

14 And so there's still a number of things that
15 before we get to the end of the day today, there's a lot
16 of things that are hanging. And so based on yesterday's
17 experience, there was a little frustration in that not
18 knowing how it's going to end up makes it hard to decide
19 what to say or what to recommend at this stage. And so
20 welcome to our world. That's the nature of this process.
21 And right now, we're dealing with a Final Environmental
22 Impact Statement and trying to provide some transparency
23 before we make a final decision and sharing what our
24 thinking is on the decision based on where we're at right
25 now. That's where we're at. And so after today and with

1 the objections that were submitted, I can't, and I don't
2 think Faye can say either, where we would end up on a
3 final decision. Our druthers would be is to live within
4 the constraints of the alternatives that we've got in the
5 FEIS and see where that would take us. And at that
6 point, we'll just see what happens with the final
7 decision. But right now, that's where we're at.

8 And so when I think of other expectations or
9 the review process, I covered how we went about it in
10 general. So we had the team -- takes quite a while to go
11 through the number of objections that we receive, the
12 level of detail that were submitted on many of them, and
13 go through the large record we had on this Plan as well
14 as the Idaho Panhandle Plan that we had together. And so
15 we wanted to make sure that we got it as right as we
16 could with the information that was on the record and
17 that was submitted by the Objectors. So that's why it
18 took a little longer than we had anticipated. I asked
19 for the team -- or the team asked for additional time,
20 and I granted an extension, before we were able to
21 finalize on where we're going to end up on the
22 objections.

23 I think the range of objections was very broad.
24 You know, there was timber issues, there was small -- or
25 pretty specific administrative procedure issues. There

1 were more broad county coordination and county engagement
2 issues that were brought forward. Full gamut. And so it
3 took a while to get through all that. And so what I hope
4 for today is that we would be able to have a good
5 discussion and be able to reach a better understanding of
6 where we would go from here.

7 I know that during the time period between the
8 time of the objections period closed and today a number
9 of individuals and groups wanted to meet with me
10 individually to talk about their objections. I did meet
11 with a handful of folks, but I did not talk about
12 objections. I talked about the process. The review
13 process does not allow me to speak to people one-on-one
14 about their objections. That's why we have this open
15 forum. Everybody that was an Objector and everybody that
16 had requested status and was accepted as an Interested
17 Person was invited to this meeting and has had an
18 opportunity to be here and hear what's going on. And
19 that's the format that we need to be able -- I need to be
20 able to operate in. So it's not that I wasn't interested
21 in hearing from you, but I have to be able to operate in
22 a forum where everybody hears the same thing. And so on
23 these issues today, hopefully everybody will hear the
24 same thing. And the fact that the issues that were
25 brought up today may not have been an issue that you're

1 an Objector on but yet you're an Objector, everybody
2 plays. Because we don't know and we can't predict at the
3 beginning what will be affecting other issues as we go
4 through the issues we chose. And so in order to make
5 sure everybody has an understanding and is able to
6 participate, I just wanted to make sure that just because
7 you're not listed on any of these issues doesn't mean you
8 don't have standing and I'm not looking to hear from you
9 about what your view would be in addition to what's being
10 presented.

11 And so my final written response to Faye will
12 reflect my findings for review of the written submitted
13 objections, current policies in place, the direction the
14 agency is headed on some of the issues, and the
15 direction -- the discussions we've had here today.

16 The Revised Plan was developed under the 1982
17 Planning Rule and was subsequently replaced by the 2012
18 Planning Regulations. But I conducted my review based on
19 the 1982 Planning Rule. The Forest made the decision to
20 stick with that going through it, and so while the 2012
21 is the current rule, we have to review it based on the
22 '82 basis.

23 I drew up my final written response by similar
24 objections rather than point-by-point response to each
25 issue raised. And my response may contain direction to

1 the responsible official, Faye, to implement prior to
2 signing a Final Record of Decision and will be the final
3 decision of the agency on objections.

4 So the process with the objections is it's not
5 an interim process. This is the opportunity for us to
6 consider your objections. And how I determine the
7 response would be is the final decision or determination.

8 Now, it's not like in the appeal process where
9 we had a decision and the decision's either affirmed or
10 turned over, remanded. And so this is at the
11 pre-decision stage. Once Faye deals with the issues that
12 I send back to her on the decision letter, she's free to
13 sign the decision, however that ends up being. And then
14 the next remedy would be if folks aren't satisfied with
15 that decision and how the issues have been dealt with,
16 then the court -- the recourse is litigation. And so
17 hopefully we're going to be able to be responsive enough
18 to the objections with my direction letter that we won't
19 have to get into litigation. We'll see. But that's the
20 way the process is going to play out from here. I think
21 with that, I'll stop and see if there's any questions.
22 We have a little time.

23 MR. COLBURN: Kevin Colburn with American
24 Whitewater. Sorry, I spoke fast yesterday. I'll try to
25 slow down.

1 So under the old appeals process, you were kind
2 of stuck on like a NEPA loop where you, like you said,
3 you would remand a decision back, there'd be more
4 analysis, the public would have more opportunity to
5 comment, there would be a new decision, people could then
6 appeal that again. There was this loop that would happen
7 of testing ideas before something could go to court -- or
8 would go to court. And that was really exhausting and --
9 I think for everyone. So it wasn't perfect. But in this
10 case, it seems like it's going like we'll have this
11 meeting and then the next time we'll talk is like court
12 or not court.

13 And I guess my question to you, maybe it's
14 rhetorical, maybe it's not, is would you consider or
15 could you consider if you still had outstanding questions
16 or you had a draft proposal that was significantly
17 different than what we've seen, would you pitch it back
18 out to this group and let us at least write a letter in
19 response to it?

20 MR. PENA: So what's going to happen is, is
21 Faye will work with the Forest to do the remedies that
22 we -- that I identify. And then we'll have to evaluate
23 whether or not a couple things are in play. One is, is
24 the FEIS that was sent out still valid or did it change
25 too much to be considered a changed document? And then

1 if that is the case, then we have to go back to our NEPA
2 regs and determine if we have to do a supplement or
3 something else that would require us to go back through
4 the public notice and comment and put it out for review.
5 If that isn't the case, then we would go forward, we'd
6 put out the decision, and then we would go to -- people
7 would see it when it came out. So it really depends on
8 how much change occurs from the FEIS to now.

9 And so the other thing that I think is
10 important is that the Forest is expected to continue to
11 engage the folks that have been engaged in the Plan as
12 they go forward. And so there's nothing that precludes
13 the Forest from having meetings, discussions or anything
14 with the collaboratives that they've been working with,
15 the working groups they've been working with as they move
16 forward in the revising or responding to the documents.
17 And certainly as they get ready to go out with a new ROD
18 is having some discussions about that. That will be
19 guided by what our NEPA regs say.

20 Any other questions?

21 MR. BOWSER: Matt Bowser with the Yaak
22 Valley Forest Council.

23 Welcome to Libby, thanks Mr. Pena. None of the
24 issues that we raised in our objection are listed on the
25 four topics today. Does that mean that they don't have

1 merit in your eyes or we're just not discussing those and
2 they'll be addressed later?

3 MR. PENA: No. I don't think -- the fact
4 that we chose these four does not mean, and you should
5 not assume it to mean, that the other ones have no merit.
6 We responded to every one of them. And I can't say how
7 many of them off the top of my head are going to trigger
8 additional work by the Forest in order to be responsive.
9 So like I said, some of them were as simple as we don't
10 like this decision. So it's tough to be responsive to
11 that. Others pointed out where we may have made an error
12 in process or we got something wrong, and in reviewing
13 the record they were right and there's really -- it's a
14 black-and-whitish issue so there's no reason to bring it
15 to this forum to try and work it out. So those kinds of
16 things will have pretty clear direction back on what
17 needs to happen based on the objection and the remedy and
18 the findings of the advisory team.

19 And so every one of the objections were
20 significantly reviewed and have had a lot of discussions
21 about how to move forward and how to respond to them.

22 MR. MATTHEIS: Scott Mattheis with
23 Montanans for Multiple Use.

24 When Ms. Krueger was talking about
25 complimentary boundaries with the other Forest, was any

1 consideration or coordination done with the Canadian
2 Ministry of Forests, British Columbia? Because it seems
3 we, the United States, likes to dictate what we they do
4 up there. I was wondering if there was anything that
5 they were trying to get us to do or not do here.

6 MR. PENA: I don't know.

7 MR. MATTHEIS: Ms. Krueger. Was any
8 consideration taken to the Canadian?

9 MS. KRUEGER: No.

10 MR. MATTHEIS: Thank you.

11 SENATOR FIELDER: Senator Jennifer Fielder.

12 On the point that was raised earlier about the
13 objections that aren't being brought forth in this public
14 forum, you said you'd responded to those and analyzed
15 those. When will we receive that information about how
16 you responded to those?

17 MR. PENA: When I sign the decision letter
18 back to the regional forester. And I don't know when
19 that will be. It will depend on the results of this
20 meeting.

21 SENATOR FIELDER: So we won't know the
22 USDA's opinion on those objections until you make a final
23 revision.

24 MR. PENA: Yes; that's correct.

25 Any other questions?

1 MR. TROCHMANN: Where's the coffee pot?

2 MR. PENA: I don't know. Unfortunately, I
3 don't drink coffee, so I'm not worried about it.

4 Have we got coffee here?

5 MS. MCDUGALL: We didn't have enough to
6 provide for the public. So at break times you'll have to
7 find coffee in town. I apologize for that.

8 MR. PENA: If that's it for the questions,
9 I'll turn it back to Barb.

10 MS. BECK: Well, we had a break scheduled.
11 Do we have the phone operational or no? And we're not
12 going to.

13 FROM THE FLOOR: Not yet.

14 MS. BECK: Well, I guess I need to know
15 what to do here. We didn't want to get off the schedule
16 because of the people on the phone that might be calling
17 in or not calling in. But if the phone's not
18 operational, I wonder if we'd like to proceed.

19 MR. PENA: I'd like to take a break and
20 give them time to get the phones working.

21 MS. BECK: Okay; so we're going to take a
22 break. And we will reconvene again at ten o'clock and
23 start with the County Coordination issue.

24 (Proceedings in recess from 9:46 a.m. to
25 10:09 a.m.)

1 MS. BECK: So to people on the phone, I
2 believe we have some folks on the phone now. I apologize
3 that we weren't able to get you on at the start of the
4 meeting. We have not yet started discussing any of the
5 issues or the objections, and so we're going to start
6 into that now.

7 And so those of you on the phone, if we can
8 have you introduce yourselves, that would be great. On
9 the phone, could you introduce yourselves? I'm getting
10 the one-second sign here. Can the phone people hear us?
11 Yes? Okay; if they can hear us, I think we'll go ahead
12 and proceed.

13 And what we've done is moved the microphones
14 from the front off the stands and put them on a chair.
15 So one microphone will have to be passed around for each
16 of the Objectors' tables and then Interested Parties will
17 have to come up and use one of the microphones if you're
18 willing to do that.

19 They can hear us?

20 MR. PETERSEN: Can you hear us?

21 MS. BECK: Oh, yes. Welcome to the
22 meeting. Will you please introduce yourself.

23 MR. PETERSEN: Mike Petersen with the Lands
24 Council.

25 MS. BECK: Welcome. Who else is on the

1 line?

2 MR. PECK: Brian Peck with NRDC.

3 MR. FIELDER: I'm a retired wildlife
4 biologist.

5 MS. BECK: Would you say your name again;
6 I'm sorry.

7 MR. FIELDER: Paul Fielder, F-i-e-l-d-e-r.

8 MS. BECK: Okay; anybody else on the phone?

9 MR. FINNEY: This is John Finney. I have
10 Objector status on the Kootenai as well as Idaho
11 Panhandle.

12 MS. BECK: Okay.

13 MR. SHAMLEY: Doyle Shamley, aide to
14 Senator Fielder.

15 MS. BECK: Okay. Anybody else on the
16 phone?

17 MS. SECORD: Pam Secord, Benewah County,
18 Idaho as Objector and also Interested Party.

19 MS. BECK: Okay; Pam. Okay; thanks those
20 of you for joining us on the phone. I apologize for our
21 glitches this morning.

22 Okay; so we're going to now start into the
23 County Coordination issue. And I'll turn it back over to
24 Jim.

25 MR. PENA: Thank you. So as I get ready to

1 go through the issues, I just wanted to preface it by
2 just being clear that my objective is to hear from you
3 and so hear what your -- additional information to help
4 me make sure we captured it correctly from the written
5 objections. And so I'm not looking to have the written
6 objections restated because we've already reviewed those.

7 And so what I may be doing is asking a question
8 for clarification, but I'll be opening it up for folks
9 after I go through our rationale and where we think we're
10 at is to provide feedback of Yeah, that sounds like you
11 captured it or No, you missed this piece, that kind of
12 thing.

13 The fact that I am nodding my head doesn't
14 necessarily mean I agree with what you're saying. And so
15 what I want to make sure is, is I'm trying to understand
16 your perspective and your point of view. I'm not
17 intending to validate that or anything, because there's a
18 whole range of points of view that I suspect's going to
19 be presented and I know that's reflected in the record.

20 And so I'm not making a decision today. My
21 purpose for being here is to better understand so that I
22 can make the best decision I can going forward on this
23 objections review. So hopefully that makes sense and you
24 can understand where I'm coming from. But I want to make
25 sure I'm hearing and understanding what the point is.

1 So the first one is Local Government
2 Coordination. The Objectors that we captured for this
3 issue include Glen Lake Irrigation District, represented
4 by Steve Curtiss. But Steve's not here today, though,
5 right?

6 MR. CURTISS: Yes, he is.

7 MR. PENA: Okay; he is. All right.
8 Looking at you and thinking Yeah. I wasn't sure.

9 Senator Jennifer Fielder, Montana State Senate;
10 Lincoln County, Tony Berget, chairman, County
11 Commissioners; Citizens for Balanced Use, Kerry White;
12 Sanders Natural Resource Council, John Trochmann; and
13 Bonner County, Mike Nielsen, Commissioner.

14 And so those are the folks that we picked out
15 of your objections that kind of framed the issue that
16 we're going to be talking about on this point. And so
17 the objection issue summary, when I go through the points
18 that were presented in the objections, comes down to that
19 there were concerns raised by counties and local citizens
20 regarding how they feel the Revised Plan could affect
21 their use of the forest in their local economy. Lots of
22 that came through in the objections.

23 I think the point of the objection that we're
24 capturing is whether or not the Forest Service, through
25 the planning process, adequately engaged the counties in

1 reviewing and discussing concerns and bringing them into
2 the planning process.

3 What's presented in the objections is the
4 Forest did not work with them as prescribed in the '82
5 planning regulations. They assert that their input and
6 involvement was not given due process. They were treated
7 at the same level as the general public. And there was
8 little to no attempt to resolve conflicts between the
9 local plans and the Plan Revision. And then we go
10 through to provide some excerpts from the objections that
11 reinforce how we saw or picked out the perspective that
12 was being presented around that objection.

13 And so we're going into the summary of the
14 review findings. So this is kind of taking what was the
15 objection and identifying what is the standard that we
16 evaluated against in our laws, regulations. And so the
17 planning regulations require the responsible official to
18 coordinate forest planning with the equivalent and
19 related planning efforts of state and local governments
20 and Indian tribes. The planning regulations also require
21 that the responsible official review the planning and
22 land use policies of state and local governments, Indian
23 tribes and document the results of the review in the EIS.

24 And then for those of you -- hopefully
25 everybody picked up these issue papers when you came in.

1 And so the excerpt from 36 CFR 219.7, which is out of the
2 '82 Planning Rule, that is the citation for what we're
3 measuring our expectations on performance here. And so
4 I'll leave that for you guys to review.

5 And then there's a number of -- a number of
6 points were brought up about county coordination status
7 and then how different governmental entities expected to
8 be engaged. And so I think it's important to know that
9 at each government level you have some responsibilities,
10 federal government, state government and local
11 government. And what is permissible or what is expected
12 by one government entity being controlled by another is
13 governed by the Supremacy Clause of the Constitution. So
14 when we look at where there were statements made that we
15 didn't follow county ordinances or we didn't provide the
16 decision space for the county or another entity to make a
17 decision, that's beyond what we're viewing from the
18 federal government as our role. And so we do, however,
19 believe that we have a responsibility to engage local
20 government and state government and tribal governments in
21 meaningful discussions about how our plans are developed,
22 the effect of those plans on communities and then
23 understanding how local other plans, other governmental
24 entity and federal agency plans, relate to what we're
25 developing and how they fit together.

1 And so there is -- yesterday we got into a fair
2 amount of discussion around coordinating -- county
3 coordination, coordinating status, different words about
4 whether or not we met certain laws. And I'm not going to
5 get into a debate about those laws. We identified up
6 front what we believe and how we operate based on our
7 advice from counsel and everything is what guides us.
8 And this is pretty clear to me that we have an obligation
9 to engage local government in meaningful discussions and
10 understand the impacts of our plans, understand how their
11 plans could be coordinated with ours and work out those
12 differences, if there are any. Since there's a fair
13 amount of objections on this, I suspect there are some
14 differences of opinion on how they work out or fit
15 together.

16 And so what I'm looking at, what we're trying
17 to achieve is, how do we establish the working
18 relationship with county government and tribal
19 governments, state government, and then other governing
20 bodies so that we have the best opportunity to reflect
21 local concerns, local needs in our Plan in moving
22 forward.

23 And so what the record shows is in the FEIS,
24 beginning with the initiation of the planning process,
25 local government officials and counties within the

1 Kootenai National Forest Lands were invited to
2 participate in Forest Plan development. All county plans
3 were considered as the planning process developed. The
4 Kootenai National Forest planning staff has been
5 available to talk to people, attend special group
6 meetings and share information. And the Kootenai
7 National Forest released their second Draft Plan
8 Environmental Impact Statement for a 90-day public
9 comment period on January 3rd, 2012. The initial 90-day
10 comment period was extended an additional 30 days through
11 May 7th, 2012.

12 So we picked out of the record what was
13 basically your standard public involvement that was
14 documented in the Plan and that was open to the public in
15 general to engage and provide their comments on the Plan.

16 The Conclusions that we reached: The Forest
17 Service does need to follow the direction in 36 CFR
18 219.7. And while this section of the Rule allows for
19 flexibility on how a unit should engage local
20 governments, it's also clear that close coordination
21 should take place. It's not evident from the project
22 record or the final FEIS exactly what steps and level of
23 engagement was conducted between the Forest and local
24 governments other than the statement listing all the
25 public involvement opportunities. The Forest Service is

1 not required to adhere to local government's resolutions
2 but should consider their ordinances when reviewing the
3 differences between Forest Plan Revision and local plans
4 and document inconsistencies. So what that means is we
5 have to do a meaningful review and we have to document
6 inconsistencies, and I believe it also means we have to
7 go through and attempt to resolve those inconsistencies
8 if it's possible.

9 The Forest Service needs to continue reaching
10 out to local governments and search for ways to work
11 together as we move forward with implementation of the
12 Plan. And the Forest Service needs to consider input
13 from local governments. The agency is not required to
14 incorporate it.

15 And so to me, this is the point of contention
16 that is difficult in any kind of inter-agency
17 coordination or discussions, is what do we do when we
18 meet with folks and hear what their concerns are
19 and -- or what they think should be done? And how do we
20 -- what looks like or what is reflecting the fact that we
21 heard what the concerns were and here's how we dealt with
22 them? So when I think of our review, that transparency
23 of Yes, this is what we heard. Here's what they did to
24 attempt to reconcile it, and then Here's where we ended
25 up, was lacking in the documentation in the record.

1 So at that point I'll stop and see if I can get
2 feedback from the group. Go with the Objectors first.
3 Did I capture the situation as you presented it? And if
4 not, what am I missing?

5 MR. CURTISS: I'm Steve Curtiss with Glen
6 Lake Irrigation District. And thank you, of course, for
7 the opportunity that we have to express our concerns and
8 our issues. This is a very hot topic. There is a lot of
9 debate, a lot of discussion about it. So rather than
10 cite the statutes, you know them, you've read them, we've
11 all read them, we know what they say. And basically to
12 paraphrase, it boils down to, very simply, that through
13 various statutes, the Forest Service is required
14 to -- and there again for the record, yesterday there was
15 a lot of discussion on county government. The statutes
16 very clearly say local government. It is not necessarily
17 a county issue, but it is truly a local government issue.
18 And each statute refers to exactly that, local
19 government.

20 But the statutes go on to say that the Forest
21 Service must, not if they want or if they have time, that
22 they must coordinate with local government.

23 Now, you mentioned, of course, supremacy.
24 Well, right here is a resource plan that was written.
25 This Plan is simply a guideline. It is simply something

1 to sit down and discuss the desires of local government.
2 The Plan also goes on -- your statute goes on to say that
3 you must do everything practicable by law to be
4 consistent with local land use planning. Now, that
5 doesn't mean that the county or any form of local
6 government has the authority to dictate policy to you;
7 quite to the contrary. It has nothing do with dictating
8 policy, but it has everything to do with sitting down at
9 the table on a government-to-government basis, not as
10 local individuals or as citizens of the county, but as a
11 local government, whether it be county government,
12 whether it be an irrigation district, a fire district, a
13 school district, any form of local government with
14 elected officials. And it clearly defines -- by law,
15 these statutes define that exact thing.

16 So rather than read those statutes -- and one
17 example. Now, the Glen Lake Irrigation District has, in
18 fact, invoked coordination on the Forest Service. Your
19 chief, Mr. Tidwell, and I have become well acquainted
20 down through the years through this process. There's
21 been a lot of county governments that have refrained from
22 invoking coordination and simply sat down at the table as
23 cooperating agencies or in a collaborative process.
24 There is nothing in any of these statutes that have teeth
25 in that process that says that you have to obey what

1 takes place. It grants you a place at the table, but
2 there's nothing in the statute that is actually factually
3 requiring you to participate in that planning process.

4 So with the irrigation district having invoked
5 the coordination on the Forest Service, we have expected
6 for years that this would take place, however, it has
7 not. And one clear example of that is we went to
8 Missoula with the intent of having a coordination meeting
9 with Ms. Krueger, which was a very good meeting. We came
10 back from that meeting expecting that we were going to
11 have some involvement in the Forest Plan only to find out
12 that we were instructed to go into a collaborative
13 process with which at the end we had one hundred percent
14 consensus of which our comments simply went into the
15 barrel with everyone else as public comment. That's not
16 the way coordination works.

17 And through this whole process we have never
18 been able to sit down at the table with the Forest
19 Service in a meaningful and equal relationship to
20 participate in the decisions of how this Forest Plan was
21 to be processed. So you have truly, from the beginning
22 to this very moment, violated every federal statute that
23 requires you to coordinate with local government.

24 We've got a resource council and an agreement
25 with our county whereby we have worked a lot with them.

1 We've been on board with them, they with us. And we've
2 truly tried to move forward with this process, to have a
3 meaningful input, not a supremacy position but a
4 meaningful input into this process by which we have been
5 denied on every count. It always comes back to just
6 simply input from the public. Well, that's not what the
7 law says. So you folks, unfortunately, have violated,
8 from the very beginning, the law.

9 And your own chief -- I'll -- in summary, the
10 Forest Service has deliberately violated and continues to
11 violate several federal statutes. NEPA, FLPMA, and we
12 could go on. The Clean Water Act, the Endangered Species
13 Act of which we will not read. But they truly define,
14 all of those statutes, how coordination is to be used in
15 this process. And so, as I say, you have violated and
16 continue to violate -- and the Secretary of Agriculture,
17 by which they, you and all officials of the United States
18 Forest Service are bound.

19 So I'll wrap up this particular portion of my
20 talk on coordination because there are a lot of folks
21 here in this room that want to discuss the same subject.
22 But my hope and my desire is that we truly can, in some
23 way, get back to the point of doing what we need to do to
24 make this Forest Plan come out -- you know, the things
25 that the county needs to discuss as a matter of

1 coordination are the economics of what might take place
2 with many of the flawed issues that we feel are in this
3 Forest Plan.

4 MR. PENA: So going back to what was
5 presented in this issue paper, in hearing what you
6 describe, it sounds like I've captured the issue
7 reasonably well.

8 MR. CURTISS: Yes, sir. You have -- you
9 have noted that you recognize that there has been some
10 flaws in the process. You have done that. So however
11 and whatever it takes to get back to the point of putting
12 local government in a position to be able to sit down
13 with you to make that decision, because I must point out
14 again the law says you must do everything practicable by
15 law to be consistent with local land use planning. That
16 does not mean that we dictate policy; absolutely not.
17 But we must be able to sit down at the table with you and
18 see that these things are not good for people in New York
19 City and not good for people in California. We, the
20 people of this county, of this portion of Montana, of
21 northern Idaho, we have the right, legally and
22 statutorily, to participate in that process. And we must
23 be able to do that.

24 MR. PENA: So what would meaningful
25 dialogue result in?

1 at. What is a meaningful discussion?

2 MR. CURTISS: But to sit down at the table
3 equally, on an equal basis, not --

4 MR. PENA: What does "equal" look like to
5 you then?

6 MR. CURTISS: You and I sitting down at the
7 table and coming up with something that meets our needs.

8 MR. PENA: No, that's not what I understand
9 you to say.

10 MR. CURTISS: No, I should rephrase that.
11 Not "meets our needs," but as we sit down and participate
12 in this -- our senators, we've got a senator, well
13 several of them in this room, who certainly have serious
14 input as to the economic viability of our county. And
15 that's what we need to do. We need to look at what is
16 going to be most beneficial to the local governments and
17 the local people. But they need to participate in that
18 process.

19 MS. BECK: We need to allow someone else
20 the chance to speak.

21 MR. CURTISS: Thank you. He asked me a
22 question and so I answered it.

23 COMMISSIONER BERGET: My name is Tony
24 Berget, Lincoln County Commissioner. Sorry; I've got an
25 ice cream cone here.

1 I wanted to start by saying that I was at the
2 meeting yesterday, so I won't go into a great deal. I
3 think you have a pretty good understanding, and I also
4 want to say that Faye has had a very good open-door
5 policy. So has Pam, Paul Bradford beforehand, Bob
6 Castaneda who's out here. I do feel like we are able to
7 communicate with our -- but I found that I had the same
8 issues as all of the commissioners in the Idaho Panhandle
9 area that were speaking. I don't feel like we were
10 coordinated with, that it was a part of our -- you know,
11 the counties and the Forest Service are tied at the hip.
12 The National Forest in Lincoln County 76.4 percent. It's
13 gained and gained. We've Schedule A roads, we plow those
14 for the Forest Service and the general public. As the
15 economy has changed. And we've had the SRS going back to
16 US Code Section 500 payments evaluation receipts of the
17 state and territory, we're not going to survive. And I
18 don't think there was enough evaluation in this project,
19 and I don't think we were heard. And you know, I think
20 that to sit down with the governments and hear what we're
21 trying to say, I don't feel like -- you know, our
22 comments were heard, but I don't think they were put into
23 the Plan.

24 I mean, I'm not here to say that Bob, you know,
25 Paul Bradford, Bob Castaneda, any of them didn't hear us.

1 But I don't think they're reflected in this document.
2 And the four plans come out, you know, and then we're
3 able to comment on the four plans that there are, I
4 just -- I guess I want to repeat what you've heard in the
5 Idaho Panhandle. I do not feel like you were -- you
6 know, it was there. So I won't belabor it in the back.

7 MS. BECK: Okay; other commentators,
8 Objectors?

9 Please state your name.

10 SENATOR FIELDER: Senator Jennifer Fielder,
11 Sanders and Mineral County.

12 Much of what I put on the record yesterday, I
13 think all of it applies to this forest as well, Mr. Pena.
14 Starting with the coordination issue, our elected
15 officials represent people in these communities. And in
16 order for testimony to represent the people in these
17 communities and issues, the people in the communities
18 also need to be informed of what's being proposed. In
19 the case of our rural communities here in northwest
20 Montana, the notice of the release of the Draft Plan in
21 early 2012 was not published in the newspapers of general
22 circulations within the affected areas, in accordance
23 with 16 USC. The zoning of private property in your bear
24 management units was not consistent with local planning.

25 MR. PENA: I want to make sure that we're

1 focused on the coordination issue and not necessarily
2 specific flaws in the Plan. And so how we can better
3 focus on me understanding what we need to do around
4 coordination is really what I need to hear right now.

5 SENATOR FIELDER: Right; that's where I'm
6 headed.

7 MR. PENA: Well, okay.

8 SENATOR FIELDER: The public meeting and
9 presentation on the Draft Plan wasn't held until after
10 the comment period was closed. The ranger letter to our
11 community during the comment period said that there
12 really wouldn't be any limits on recreation and there
13 would only be 18 to 54 miles of roads closed or 18 to 55
14 miles of roads closed. That's not the case. False
15 information was given during the public review period.
16 And that influenced the County's lack of coordinating
17 with you, because we were told everything was fine and it
18 wasn't really going to impact us in any way. There
19 wasn't in-depth economic analysis, economic analysis,
20 environmental analysis, social analysis. And I think
21 that skewed the County's interest in coordinating with
22 you.

23 The meetings that were scheduled with our state
24 senator at the time were not attended. I'm glad Lincoln
25 County had some good success with Mr. Bradford, but we

1 did not. He refused to attend a meeting, a scheduled
2 meeting that he agreed to attend, and he did not show up
3 for it.

4 The statement made in the opening that the best
5 science was used, Debbie Austin said that. Faye Krueger
6 said that, and that is not true. Best science was not
7 used.

8 So in getting to --

9 MR. PENA: I need you to get to what
10 we -- if you think that we captured the issue correctly.
11 I can't -- obviously, can't respond or I can't deal with
12 the point-by-point things you're throwing out there that
13 you think we messed up. I think I captured from the
14 objections that the counties and the other governments
15 and other citizens don't feel that we did adequate
16 coordination. So I'm trying to reflect that.

17 SENATOR FIELDER: Right. So what I'm
18 getting to is your considerations for dialogue at the
19 future meetings.

20 MR. PENA: I'm not there yet. I need to
21 know is what I captured as the issue and is it -- does it
22 make sense or are there other things I need to
23 understand.

24 SENATOR FIELDER: Lack of coordination I
25 agree with you on. There was a lack of proper

1 coordination. There was also a lack of proper and
2 forthright information during those preliminary
3 discussions.

4 MR. PENA: Thank you.

5 SENATOR FIELDER: Thank you.

6 MS. BECK: Other -- yeah, you're going to
7 have to use that microphone. So great; thanks.

8 Please give us your name.

9 REPRESENTATIVE CUFFE: Thank you.

10 Representative Mike Cuffe.

11 Yes, I agree on the things that have been said
12 in regard to coordination. There should have been more,
13 should have been serious, and economic and social
14 considerations must be taken into account.

15 Now, as far as -- you know, and part of it, I
16 think, is we analyzed yesterday for tomorrow. And where
17 those of us who have been living here and living with
18 things, you know, we think we should be analyzing the
19 1987 Plan and how does that get us to the new Plan? And
20 in many ways it seems like there was a big chasm that
21 kind of got jumped over.

22 Now, I guess -- I think this kind of falls
23 under county coordination, maybe off a little bit. But
24 Lincoln County took a vote. And it's been a while back.
25 But it was a vote on roadless areas. And it was a

1 strong, strong vote that said no more wilderness -- or
2 excuse me -- no more roadless areas. And yet that was
3 probably about 19 -- let's say early '90s. And yet roads
4 were closed, roads were closed which appears to be a
5 manufacture of roadless areas. And whether, you know,
6 official coordination but certainly a strong voice that
7 Lincoln County Commissioners put on the ballot. And you
8 know how that was heard, it seems like it was not. And
9 then the --

10 MR. PENA: I need to get a clarification
11 then. So if -- what I take away from that comment is
12 let's -- if we're having discussion and the local
13 government says We want to do X, and we listen to that,
14 we try to understand what that means, we factor that into
15 our laws, regulations, the analysis that we do, and we
16 end up doing X minus 3, then we didn't coordinate with
17 you.

18 REPRESENTATIVE CUFFE: I think that's
19 correct. Excuse me.

20 MR. PENA: So then we need to do what you
21 tell us to do, and that's coordination.

22 REPRESENTATIVE CUFFE: That's not exactly
23 what I'm saying, but I do not think --

24 MR. PENA: That's what your example said.

25 REPRESENTATIVE CUFFE: I do not think there

1 was any listening. I think there was a very strong voice
2 from the county commissioners saying Hey, what do the
3 people think here? And they said We're going to put it
4 on the ballot. And I mean the Kootenai National Forest
5 headquarters are right here. Ninety-two percent, I
6 believe, said no more roadless.

7 MR. PENA: I understand. So what would
8 listening look like?

9 REPRESENTATIVE CUFFE: Well, I don't know
10 that that was ever taken into consideration. I think it
11 would not look like closing additional roads, essentially
12 manufacturing roadless areas when the roads are still
13 there. That's a major frustration.

14 The other part of it that I want -- and then
15 I'll be done -- is that when we are coordinating and
16 communicating and then all of a sudden there's a major
17 rollover. All of a sudden all of the history of the
18 dialogue is gone because there's a new or going to be a
19 new Kootenai National Forest Supervisor, there's going to
20 be a new district ranger here, there's going to be a new
21 district ranger in Eureka, there's going to be maybe one
22 or two other new folks. And how do you maintain an
23 ongoing dialogue? Maybe about the time you think Hey,
24 they're beginning to understand at least what I'm saying,
25 they may not agree, and then bam, they're gone.

1 Thank you. And could I yield my last comment
2 to Commissioner Berget?

3 MR. PENA: There's no time limit.

4 MS. BECK: Give your name again.

5 COMMISSIONER BERGET: Tony Berget, Lincoln
6 County Commissioner.

7 I guess what I wanted to say is we felt like we
8 had an open-door policy, but that doesn't mean when it
9 comes to the Plan -- when we plow Schedule A roads, we
10 actually sit down and work together what we're going to
11 plow. The Forest Plan, this time, was given to us but
12 there was no consideration beforehand and it was
13 explained to us but it was back to Well, we can comment
14 like anyone else. And I think you heard that in Idaho
15 and I think you heard that from the Tribe and everywhere
16 else. In some respects there has to be more of a tighter
17 working relationship. I'm not saying that -- you know,
18 Faye has a very good open-door, and we've had great
19 relationships. But when it comes to the Plan, I think an
20 open -- you know, as the process has gone through, not
21 handled like any other Objector to what they throw out.
22 I mean, we have to work closely together for fire
23 protection, for police, everything else. And to just be
24 thrown in as any other responder I think was a flaw in
25 the process.

1 MS. BECK: Okay; so let me ask if there's
2 anyone on the phone, Objectors on the phone, that would
3 like to weigh in on whether Mr. Pena has accurately
4 described your concerns related to this issue.

5 FROM THE PHONE: Could you respeak that? I
6 could barely hear you.

7 MS. BECK: I'm just asking if anyone on the
8 phone has input about whether Mr. Pena has accurately
9 captured the issue of county coordination.

10 MS. SECORD: This is Pam Secord, Benewah
11 County, Idaho.

12 MS. BECK: Go ahead, Pam.

13 MS. SECORD: I believe in a lot of ways
14 Mr. Pena has captured. But like yesterday I was -- I
15 want to discuss the one thing he hasn't captured is the
16 corporate culture within the Forest Service regarding
17 coordination. I have a letter here which kind of
18 demonstrates what I'm talking about. It was dated
19 December 11th, 2013, signed by Thomas, it looks like
20 Schmidt, for Faye Krueger in which it states, quote,
21 "There is no special or official status for those with
22 whom we coordinate." And that coordination allows the
23 Forest Service to consider state or local land management
24 plans. However, I will repeat my definition as defined
25 of coordination from the US Department of Justice, as

1 that we're an equal importance of same order, rank,
2 degree, or importance and we're not subordinate. And
3 Mr. Pena, you are correct in that we do not have
4 supremacy based on the US versus Nine County decision.
5 However, coordination is not cooperation, it's not
6 consultation, it's not even collaboration. It's not
7 supreme to federal, and it does not carry any type of
8 veto or control over the federal management. You are
9 correct in that. It does, however, authorize local
10 governments to be at the negotiation table on an equal
11 basis of same importance, rank or degree with the federal
12 agency, but it also provides that you have to have an
13 obligation to use good faith in trying to resolve the
14 conflicts between local and federal policies and plans.
15 And that's what we're asking for.

16 We're asking for a corporate culture change
17 towards the attitude of coordination so that we can come
18 to the table as equal partners and develop a plan that
19 meets the needs of the Forest Service and the local
20 communities.

21 MS. BECK: Okay; thanks, Pam.

22 Anyone else on the phone objecting?

23 MR. PETERSEN: Yeah. This is Mike Petersen
24 with the Lands Council, and I also have a few thoughts.

25 And first, I can appreciate the needs and

1 expectations of local governments and state governments
2 and citizens in general who live in these rural
3 communities of having, you know, input and perhaps
4 wanting more input than, say, someone from New York in
5 the management of public lands. However, I think the
6 courts and the Forest Service has made it pretty clear
7 that the county coordination is more about seeking input
8 from local governments. And certainly having those
9 special meetings I think is important. But there's a
10 memo that can I can read from. "The Forest Service is
11 not subject to either the substantive or procedural
12 provisions of state and local law ordinances, land
13 management plans or resolutions." So it's not an equal
14 footing. This is federal land. It's owned by all
15 Americans, not just, you know, some county folks.

16 And -- but the solution to all this is working
17 together with multiple interests in collaborations. I
18 give an example of how on the Idaho Panhandle, which had
19 this same meeting yesterday, we collaborated just
20 recently and presented a proposal for a timber sale
21 restoration project on the Coeur d'Alene Basin, and that
22 project basically has twice as many acres of treatment;
23 in other words, logs-to-the-mills revenues, as the
24 original proposal by the Forest Service. To me, that is
25 effective having influence by working together with

1 conservationists, timber people, county people. We had a
2 county commissioner involved in that. And I think that
3 is the route to effective interaction with the US Forest
4 Service; thanks.

5 MR. PENA: So from that I gather that you
6 think that I have it pretty close to what we need to -- I
7 framed the issue pretty close the way you see it.

8 MR. PETERSEN: Yes.

9 MR. PENA: Okay; thank you.

10 MS. BECK: Okay; are there Interested
11 Parties that have something to add?

12 MR. MATTHEIS: My name is Scott Mattheis,
13 Montanans for Multiple Use.

14 I think Steve will agree with me, we've talked
15 quite extensively about this. And to maybe clarify the
16 question that you asked Steve about meaningful
17 discussion, I think we would define it as it's not just
18 showing up to a meeting and letting words go in one ear
19 and out the other. By law, coordination is discussing
20 the issues or even the resource plan, trying to resolve
21 those issues. And if they're not resolvable, then I
22 think the Forest Service has an obligation to -- or I'm
23 pretty sure by law they have an obligation to respond as
24 to why they can't resolve those issues. That's never
25 happened under a coordination process. As far as I know,

1 nobody's ever even looked at the resource plan with the
2 Forest Service.

3 MR. PENA: So I've captured the issue
4 correctly then. Because I think, essentially, that's
5 what we're saying here.

6 MR. MATTHEIS: Yes. And I just wanted to
7 clear up the "meaningful discussion" point. But also, I
8 think until this -- there is some coordination process
9 done, I think this Record of Decision should be taken off
10 the table. Thank you.

11 MS. BECK: Okay; come on up. We're still
12 talking about whether he's described the issue correctly.
13 That's the subject of this discussion.

14 FROM THE FLOOR: I'm ready to go to
15 resolution.

16 MS. BECK: Okay; hang on just a minute
17 then.

18 Any other -- yeah, so you can use the
19 microphone in front of you there.

20 MR. MCKENZIE: Paul McKenzie of
21 F.H. Stoltze.

22 I think maybe an issue that was brought up is
23 that in this coordination process there's oftentimes a
24 difference of opinion as to what the county wants to see
25 or local governments want to see. And I think one of the

1 issues is the Forest Service, oftentimes, is not in a lot
2 of the impacts of that difference of opinion. And if
3 they got -- something that is missing is that when there
4 is an unresolveable issue, I think it's the role of the
5 Forest Service to analyze and disclose the effects of
6 that difference of opinion so it would be part of the
7 Record of Decision and also part of the information;
8 thank you.

9 MR. PENA: So that would be another way of
10 indicating that we had meaningful discussion then.

11 MR. MCKENZIE: It would verify that their
12 point of view was heard, recognized, analyzed, and
13 considered.

14 MR. PENA: Okay; thank you.

15 MS. BECK: Oh, one more; okay. And so this
16 is just on the subject of whether he's captured the
17 issue, correctly; right? Then we're going to move on to
18 remedies.

19 REPRESENTATIVE WHITE: Kerry White,
20 executive board of Citizens for Balanced Use, also House
21 District -- Montana House District 70.

22 Our objection just included a short paragraph
23 on coordination with counties because, clearly, you have
24 failed to coordinate. In your statement, Mr. Pena, you
25 mentioned that there was a requirement to document the

1 inconsistencies. And I would make sure that you elevate
2 that very highly as the industry folks just mentioned.

3 This paper that I have here is from the Office
4 of General Counsel, dated January 2009. And it just
5 makes the statement from the attorney of General Counsel,
6 that although the federal government maintains broad
7 powers to regulate federal land, which you've stated, a
8 state may enforce its laws on federal land if they are
9 not preempted by federal law. So I don't think we're
10 asking that you violate federal law in being consistent
11 with the local plans but that you do adequately consider
12 those. And I would suggest remanding the decision until
13 that's adequately done, documented consistently.

14 MR. PENA: Remember, we don't have a
15 decision yet. So that's an important distinction to make
16 because we -- nothing is cast in concrete. We have a
17 draft.

18 MS. BECK: So we are still on the subject
19 of whether or not he captured the issue. Okay.

20 MR. TROCHMANN: John Trochmann, Sanders
21 Natural Resource Council.

22 So that does send somewhat of a quandary
23 without our commissioners participating in any of this in
24 Sanders County. It's like either they don't care about
25 our way of life or have a different type of agenda. So I

1 guess that's why little organizations like us have formed
2 because we do care about our communities.

3 Our community is dying. Sanders County has
4 lost a lot of its population. Our school population has
5 dropped 44 percent in fifteen years in the Noxon-Heron
6 area. And what we're looking at now is young folks in
7 their freshman year at 33 and first grade they're 15. So
8 we know where this is headed. It's a dying community.
9 We have nothing left to work with.

10 There's a number of other things in here. The
11 Executive Order 13575, which we feel has given us a seat
12 at the table for coordination. You had made statements
13 in here. Although we believe that the Forest Service is
14 under the Department of Agriculture and Agriculture has
15 stated that they want to change the way the rural
16 communities are treated financially to a better position.
17 Also it says in here in your statements under the
18 Supremacy Clause, the supremacy that the federal
19 government has is Article 1 Section 8. That is the only
20 supremacy clause they have. The Bill of Rights Article 9
21 and Article 10 are left for We the People in our states.
22 So I'm not so sure that you, as a Forest Service and the
23 planning as you've done, has not stepped over the
24 boundaries somewhat; thank you.

25 MS. BECK: Okay, we want to move to

1 remedies. So I'm going to try to cut it off after this
2 one if you could be brief in your remarks.

3 COMMISSIONER FOSS: Suzy Foss, Ravalli
4 County Commissioner. Everything that's being said is --
5 and I know you're hearing it. I think when you ask What
6 does coordination look like to us, it isn't just having
7 that equal conversation. One thing that I have to bring
8 up is I respect every person in the Forest Service, but I
9 don't ever feel -- I rarely feel acknowledged that -- I
10 was elected by the people. And the people who I am
11 elected by are the ones who have the immediate impact of
12 your decisions. And there's many times when someone is
13 saying Well, I have the supremacy. I believe that my
14 job, my position as an elected official, gives me an
15 awful lot of weight. And I'm the one the people come and
16 scream and yell at or cry over. I watch our families
17 leave with four kids graduating a high school that used
18 to be the number one economic driving source in our
19 county. So when you say what is the results or what we
20 look for, it is that there are results that when you say
21 local governments, state, and tribal. The Tribe will say
22 this. In your documents that we're discussing these last
23 two days, tribal interests are very definitely reflected.
24 What is not reflected to anywhere that I can find is
25 local impacts, local concerns. And that's what I think

1 our frustration is. It's great that we have a
2 conversation. But conversations are meaningless unless
3 there's a respectful aspect to who is in this
4 conversation? And these are people who are here because
5 they represent We the People. And all of -- that
6 document that you referred to that was just referred to,
7 our Constitution is pretty darn clear that it's at the
8 ground that is the voice of the people of the United
9 States of America. And I suspect that people who live in
10 Washington, D.C. or New York City or L.A. -- I came from
11 San Diego. I thought all of America was paved when I
12 moved up here in 1975. And the beauty of the wilderness
13 is great, the beauty of our forest. But I don't think
14 they'd be thrilled if they flew over what we fly over and
15 see how much is burned to the ground. That needs to be
16 documented. Because when we make more wilderness or we
17 make anything else that you decide that is a taking from
18 our community and from the citizens of the United States
19 when the management backfires. And so we need to bring
20 that discussion to you and have you listen to that and
21 reflect it, because the citizens of America in D.C. and
22 everyone else look to us to have that voice for them.
23 Thank you.

24 MS. BECK: Thank you.

25 Okay; on the phone, any more Objectors or

1 Interested Parties wish to comment, because we need to
2 move to remedies before we run out of time? Anyone on
3 the phone?

4 MR. FIELDER: I don't know if anybody can
5 hear me. My name is Paul Fielder, and I'm trying to call
6 in on the conference call --

7 MS. BECK: Yes, we can hear you.

8 MR. FIELDER: I wish I could have heard
9 enough words from the Objectors to be able to piece
10 together a sentence to understand what they were saying,
11 but this conference call, despite Darcy's best efforts,
12 is a failure.

13 I do want to say about coordination, if the
14 idea is to try to give Mr. Pena more information upon
15 which to base his decisions, please take another look at
16 Executive Order Number 13575 because that is the law of
17 coordination and it dictates exactly what coordination is
18 supposed to be. And it's not meaningful discussions,
19 it's not conversations. There's a law of coordination
20 that's very specific about what has to happen. And I
21 think that's what the whole coordination issue is based
22 on, that the Forest Service has not been following the
23 law of coordination. I hope you could hear that.

24 MS. BECK: Yes, we did; thank you very
25 much.

1 Okay; any other commentators on the telephone?

2 Okay, Jim, do you want to move to talking about
3 the remedy?

4 MR. PENA: Sure. So thank you, everybody,
5 for sharing those comments and helping me better
6 understand where you're coming from.

7 The remedy that I'm thinking of at this point
8 is the following: Ensure the review of local
9 plans -- ensure that review of the local plans is
10 included in the final EIS and referenced in the final
11 Record of Decision. If there are conflicts identified
12 between the Forest Plan and local plans, review the
13 conflicts with the counties to attempt resolution. If
14 there is not resolution, then document why in the Record
15 of Decision. In addition to the required review of local
16 plans, if documentation is available showing adherence to
17 Section 219.7 and the intent behind the regulation add it
18 to the project record referenced in the Record of
19 Decision. Examples would be meeting dates, meeting
20 notes, correspondence, et cetera. Then work with local
21 governments to identify other means of being involved as
22 the Plan is implemented including but not limited to
23 inventory data, collection, monitoring, and project
24 implementation.

25 And so when I reference 219.7, I go back to the

1 expectation that responsible -- each of these points.
2 And each of these points, I believe, address the concerns
3 I heard and the vision that I heard thrown out of being
4 deliberately met with, have deliberate discussions about
5 what local government concerns are, trying to coordinate
6 and -- well, first, you have to review and evaluate the
7 local plans, see how they relate, if at all, to the
8 Forest Plan, and then have discussions around what those
9 could be, what that coordination or connection could be.
10 And then be able to document where we end up with the
11 discussions.

12 And so that's the remedy that I'm proposing is
13 that we basically go back -- we can't put the bullet back
14 in the gun and go back twelve years ago and start all
15 over. I don't want to do that. I want to be able to
16 pick this up where we're at and be able to have the
17 Forest engage local governments that are interested in
18 engaging and have the meaningful discussions that I heard
19 you guys describe. That's what I believe this remedy
20 would cause us to do. It also causes us, in compliance
21 with the regulations, to document what we know about the
22 other plans that we should be coordinating with, state
23 wildlife plans, state forest assessments, county and
24 local government resource plans, those types of things
25 that would inform us better on the environment in which

1 the Forest Plan would be operating.

2 That's what my remedy would be at this point.
3 And so I'd like to hear feedback from the Objectors first
4 on does this hit the mark for you? If it doesn't, how
5 could it be adjusted to better hit the mark and see if
6 we're in the ballpark. And so this is open to anybody,
7 any of the Objectors. It's not just the folks that are
8 listed on the document.

9 MR. BUTTS: Todd Butts. I guess one of the
10 things I'd like to see included in the remedy would be a
11 more in-depth economic analysis. It says here in 219.7
12 that you've referenced on page three that a program of
13 monitoring and evaluation shall be conducted that
14 includes consideration of the effects of national forest
15 management on land resources and communities adjacent to
16 or near national forests. This is 1982. I would assume
17 this has been done for the 1987 Forest Plan, this
18 monitoring? This required monitoring.

19 MR. PENA: I'm not sure what you're asking.

20 MR. BUTTS: Well, as part of the
21 regulation, it says that a program of monitoring and
22 evaluation shall be conducted.

23 MR. PENA: Yes.

24 MR. BUTTS: Well, assuming that that
25 monitoring and evaluation has been conducted, I'm quite

1 confident that it would show a declining local economic
2 effect as a result of the forest land management that has
3 gone on.

4 I think a big part of this solution is to
5 analyze those forest management effects and try to figure
6 out what we can do to improve that situation.

7 MR. PENA: I'm not -- I'm not going to be
8 directing them to do additional specific analysis. What
9 I'm going to be directing them to do is how they're going
10 to engage with the counties. If something comes out of
11 that engagement that results in a specific thing like
12 you're suggesting, that's for them to follow up on. So
13 what I'm trying to nail down is, does the remedy that I'm
14 laying out here put us on the direction to address the
15 concerns that the counties don't -- that local
16 governments have not been adequately engaged in the
17 development of the Plan, and how do we rectify that. And
18 so my proposal is this would -- at the point that we're
19 at, require that we go back and do the discussions, the
20 meaningful engagement, and whatever analysis that that
21 results from would need to be done.

22 MR. BUTTS: Yeah.

23 MR. PENA: That's what I'm trying to get
24 at.

25 MR. BUTTS: I agree with the remedy. I

1 just wanted to point out what a large role the economics
2 need to play in that remedy.

3 MR. PENA: I understand.

4 MS. BECK: Over here and then we'll come to
5 you. Your name again.

6 COMMISSIONER BERGET: Sorry; Tony Berget,
7 Lincoln County Commissioner.

8 I would agree. And you had asked before if we
9 were willing to work on a committee. And I think perhaps
10 that meeting with the Forest Plan, you know, team, with
11 all the commissioners from the Panhandle and the Kootenai
12 at the same time to talk about it because after listening
13 to what I heard in Idaho, we're all saying basically the
14 same thing. We might be wording it slightly different,
15 but we're all saying the same thing. And I think each
16 one of us feel the same way about what's missing in this
17 Forest Plan or what engagement. So, you know, if you
18 wanted to implement that somehow into that process.
19 Because if we're just going to have meetings and then
20 they're going to document Yep, we listened to them
21 and -- I'm not going to say that we will agree on
22 everything, and I'm not saying the Plan has to fit
23 everything we want, but there has to be the possibility
24 of change based on that, not just we're meeting and Okay,
25 well, let's have another meeting.

1 MS. BECK: Okay; thanks. We have a comment
2 over here.

3 MR. PENA: I hope what I'm conveying in
4 this is I'm not expecting just to have a meeting. I'm
5 expecting that there'll be meaningful engagement as you
6 guys have described, because that essentially is what I
7 think's called for in the regulations that we're asking
8 about. So what has helped me is how would that look?
9 How would the results of that play out in the decision?
10 Not the decision but the analysis. Because there's no
11 guarantee that when the Forest Service takes and
12 amalgamates all the analysis that we've done that the
13 results of the discussions with any one party is going to
14 be the result. It's a synthesis of what we've heard and
15 what we can analyze and what we can establish as an
16 appropriate path forward. But what I heard clearly is,
17 if we -- the engagement that you believe is required, the
18 meaningful dialogue and the results of that is this
19 discussion's been very helpful on what the indicators of
20 that would be that you were heard. And my expectation is
21 that that would happen. And it's not just another
22 meeting. Because I'm willing to bet we can go back,
23 regardless of everybody's memory, and find records that
24 we met with a lot of people around these county issues,
25 around the government issues, over the twelve-year

1 period. I don't think that's what this is about. That's
2 what I'm hearing from you. So I think it's important.
3 And Tony, your suggestion of how it could be done, I
4 think that's an open question and I would leave it to the
5 folks that are going to engage to work that out. But I
6 want to make sure that there's clarity around the
7 expectation is, is that based on our own records, state,
8 local, other federal agencies have an obligation, we have
9 an obligation to meet with them in a meaningful way. And
10 that's what I would be charging back.

11 MS. BECK: Okay; I've had three hands in
12 the air. We have five minutes to wrap this up. So I'm
13 going to give the microphone over here first, and then
14 we're going to move along quickly.

15 MR. TROCHMANN: I'll take my one minute.
16 John Trochmann, Sanders Natural Resource Council.
17 We are just an NGO. You had not mentioned
18 anything about coordinating with NGOs to government you
19 said. We had taken two years out of our little
20 organization and created a document for our county
21 commissioners. They did adopt it but they never
22 implemented it with the Forest Service. We have had
23 coordination meetings with the Forest Service, with the
24 local ranger and here with Paul Bradford. In lieu of the
25 fact that our commissioners seem like they have no

1 interest or don't care to be involved, yet they say they
2 have a good working relationship, but where's the work?
3 There's no work. We would like to pick up with local
4 rangers. Would that information get funneled to Faye?

5 MR. PENA: I'm not sure what you're asking
6 me. What you're describing to me is not the coordination
7 that's on the table here. If you guys work with your
8 county commissioners and you help them develop a product,
9 I think what is being discussed here is we have an
10 obligation to meet with county commissioners, have that
11 discussion, and see how we can incorporate that plan.

12 The discussion that we had with the public and
13 all the Interested Parties is not the point of this issue
14 resolution here. Does that help you?

15 MR. TROCHMANN: Okay; so the years that we
16 put into this, what do we do with that effort, the
17 learning experiences and what we can contribute? How do
18 we bring that to you or don't we?

19 MR. PENA: I'm not prepared at this point
20 to tell you the process that you have been engaged or
21 could have been engaged in all along. What I hear you
22 saying is you have been talking with the district ranger
23 and they have been incorporating or working with you on
24 that. And so if you want to set up a meeting with the
25 planning team, that would be an appropriate thing, to me.

1 MS. BECK: Okay; this table and then the
2 far table.

3 REPRESENTATIVE CUFFE: Thank you.
4 Representative Mike Cuffe.

5 And part of this is in the form of a question.
6 I understand it's for input. But number one, what is the
7 balance between input from individuals, county
8 governments, state government, tribes or tribal
9 governments, and environmental groups? How does that
10 balance and weigh? Are they all equal weight, et cetera?
11 And then a comment. The county governments have a
12 particular interest.

13 The comment was made earlier about the
14 treatment programs and getting some logs in to mills,
15 et cetera. But I think many of those treatment processes
16 essentially take money which at one time would have been
17 logging sales that would have brought revenues back to
18 the counties and I believe that revenue now goes to the
19 Forest Service. So the shifting of the power shift in
20 finances. Now, maybe I'm incorrect, but I believe some
21 of the stewardship lands --

22 MR. PENA: Stewardship involves retaining
23 receipts. So you're right. Those don't contribute to
24 the county receipts fund.

25 REPRESENTATIVE CUFFE: Yes. So

1 consequently, you know, it seems to me that something
2 that did belong to the county now no longer belongs to
3 the county. So it seems to me that the county government
4 should have -- they've got a little bit more skin in the
5 game; thank you.

6 MS. BECK: Senator Fielder.

7 SENATOR FIELDER: Thank you. Senator
8 Jennifer Fielder.

9 Mr. Pena, you asked what this coordination
10 would look like, and I thank you for asking that. And I
11 think you've got a lot of it down. But as a
12 representative, as an elected representative of the
13 people for this specific area that the Kootenai National
14 Forest is in, I want to be included in those discussions
15 as well. I am part of state government, and I am local
16 representative of these people. So I'd like to be
17 included in these coordination meetings.

18 I think that something that needs to be added
19 to your remedy is that the information presented at these
20 meetings needs to be factual. I have several instances
21 of where nonfactual information was used in the
22 communications with us and with the public. So we need
23 to have that factual information. You brought up some
24 issues yesterday and you acknowledged that there was
25 disaggregated information in the Plan, so it was very

1 difficult for anyone to understand what the Plan actually
2 did say. So we need this summary. We need this broken
3 down because it's very, very difficult, if not
4 impossible, for somebody to read through the
5 1100-something pages and all the maps and everything and
6 sort that out and understand what it really does to our
7 community. So we need clear information about what does
8 this do to our community economically, environmentally,
9 socially. And not just this new decision, but I think we
10 need to put it in context with historical. We need to
11 look at what was working well before when the Forest
12 Service used to be more productive, when the lands were
13 more productive and when access was better and when fire
14 hazard was mitigated and down and when you used to
15 actually generate revenues into our communities and for
16 your own agency and for our nation as a whole. That type
17 of information needs to come forward in the coordination
18 discussion so that we have good information on the table
19 to engage not only the local government officials but let
20 the citizens know what's going on; thank you.

21 MS. BECK: Thank you. We have someone
22 waiting over here and then I'll come back to you.

23 MR. WHITE: Kerry White with CBU.

24 Just a couple of comments that legislature last
25 session we passed HB 169, which made the growth policy of

1 the counties the legal resource plan to coordinate with
2 federal agencies. So in your statement that you're going
3 to review those resource plans of the county, make sure
4 that you're reviewing the growth policies of those
5 counties that are affected.

6 And some of our log -- RY and Sherm Anderson
7 with Sun Mountain, they're hauling logs out of Idaho. So
8 you might want to look at some of those growth policies
9 in those counties that still have mills that would be
10 highly affected by the operation or the management of the
11 Kootenai. Even though they're not in the county where
12 the forest is at, it would be affected by that.

13 And the second thing that I'd like to mention
14 is that I sit on the EQC with legislature, and it was
15 brought to our attention that there's no formal education
16 on coordination within the Forest Service. There's a lot
17 of uneducated folks within your agency that have
18 absolutely no idea what coordination is. And so I would
19 ask that if you're going to have people within your
20 agency coordinate with local government, they should at
21 least be educated on what coordination is and what's
22 required in that, otherwise they're just sitting at the
23 table. So if you can assure me that those folks sitting
24 at the table coordinating with local governments
25 understand what coordination is, I think that that's an

1 important factor; thank you.

2 MS. BECK: Go ahead.

3 MR. BARQUIN: Billy Barquin, Kootenai
4 Tribe.

5 I believe what you have written down here as a
6 remedy is correct. The only edit to the actual paper,
7 and I think you said it already as well, is it's
8 coordination with state, local and tribal government.
9 You need to be sure that all those governments are
10 involved in this. Because we as governments have
11 obligations to our citizens and to our resources the same
12 as the Forest Service does.

13 And just as we move into implementation,
14 understanding that it's a two-way street. We will give
15 you the information that the government of the Kootenai
16 Tribe has that will help you find your information, but
17 at the same time you need to give us information. And I
18 have to say for both the Kootenai and Idaho Panhandle
19 National Forests, we have a very good working
20 relationship with both. We get information going both
21 ways. And I think the Forest Plans could use some
22 improvement but are generally good from our perspective.
23 But we need that two-way street of information to
24 continue, and it needs to continue for all governments so
25 that we can meet our obligations.

1 MS. BECK: Thank you. One more comment
2 here and then I'm going to ask on the phone, and then we
3 have to wrap this up or we won't get to the next issues.

4 MS. SECORD: Did I hear that you're asking
5 for a comment on the phone?

6 MS. BECK: After one more commenting
7 person; hang on.

8 COMMISSIONER BERGET: The only thing I
9 would request -- Anthony Berget -- or Tony Berget,
10 Lincoln County Commissioner -- is that we include Sanders
11 County and Flathead County, because Lincoln County does
12 have a working relation with them.

13 Although they're not Objectors, we do
14 communicate back and forth, and I think I'd hate to see
15 them left out of the process just because.

16 MR. PENA: My expectation is that whether
17 or not you're an Objector isn't the point here. It's
18 county -- local government is the point.

19 MS. BECK: Okay; thank you.

20 On the phone now, go ahead.

21 MS. SECORD: This is Pam Secord from
22 Benewah County, Idaho.

23 I just want point of clarification. My
24 understanding -- I agree with what you have remedied. My
25 understanding is that you're going to keep the Draft EIS

1 kind of in place, and then we will start a series of
2 coordination efforts between the local governments and
3 the government-to-government sit-down situation, not just
4 one meeting.

5 And I concur with Kerry White's CBU. You do
6 need to direct your intention for coordination and your
7 corporate cultures and educate your people. And one
8 other question for you is, should we find an impasse on
9 that issue of what your directive is versus what's
10 happening at the local level within the Forest Service,
11 do we have an administrative remedy to contact you to try
12 to get resolution to move forward?

13 MR. PENA: When I sign my decision, that's
14 my responsibility, I don't have further oversight of the
15 planning process. So if you feel like the remedy isn't
16 being applied, then you need to talk with Faye and Faye
17 would work with the forest supervisor to make sure those
18 expectations are met. Because Faye's responsible for
19 implementing it.

20 MS. SECORD: Okay.

21 MR. PENA: And I'm not going to prescribe
22 what the process is on engaging with the counties. It
23 may be one meeting, it may be a series of meetings. I
24 think -- I can't foresee at this point what it will take
25 to accomplish the coordination that needs to happen and

1 the discussion -- the meaningful discussions that have to
2 happen with the government entities -- that local
3 government entities that are interested in the Plan. So
4 I don't think it is something I can respond to right now.
5 And in any event, it wouldn't be part of the remedy
6 direction on -- to have five meetings or whatever. It is
7 to accomplish the result. And if it takes ten, it takes
8 ten. If it takes one, it takes one.

9 MS. BECK: We're going to have one more
10 comment from an Objector here and then we're going to
11 wrap this one up.

12 MR. LETCHER: Josh Letcher.

13 One of the remedies I'd like is both Glen Lake
14 Irrigation District and the Town of Eureka ask that
15 within their watershed there's rules regarding the
16 management.

17 Sorry; I'm not good with microphones.

18 But anyways, after asking -- and Glen Lake has
19 asked to coordinate, the Town of Eureka has asked to have
20 their input highly considered because, I mean, the
21 water's awfully important to both of them, and they both
22 got a letter back that said Thank you for your comment on
23 the Kootenai National Forest Plan. We'll be in touch
24 with you later, but both -- there's several creeks in
25 those areas and they're all recommended now to be either

1 recommended wilderness or back country nonmotorized which
2 eliminates all management possibilities that would help
3 keep the water for them. So I think coordination
4 meetings with both of them guys would be a definite.

5 MR. PENA: They're local government. So if
6 they want to meet with the decision -- or the forest
7 supervisor, I would expect that those meetings would be
8 set up.

9 MS. BECK: I have to cut off the comment
10 now because time to move on. I'm sorry?

11 (Inaudible comment from floor - no mic.)

12 MS. BECK: Come on up.

13 FROM THE FLOOR: You have telephone waiting
14 too.

15 MS. BECK: Yeah, we did just ask for the
16 phone. The problem is we won't get to the other issues,
17 so please be very succinct.

18 MR. PODSAID: Sandy Podsaid, Shoshone
19 County, Idaho.

20 Mr. Pena, you asked for remedies. And I think
21 the reason we got to this is because the EIS is what we
22 would call incomplete. And I'll give you some examples.
23 In other EISs that I've reviewed over the years from
24 different forests, it used to have county government
25 comments in a separate section. In this case in the

1 Panhandle, which I mostly reviewed and a little bit over
2 here, there was a certain amount of interpretations that
3 were there and these letters were all coded. So the EIS
4 -- anybody reviewing the EIS couldn't actually review the
5 letter at the time. That's been changed on the website
6 currently. But those results of reading the letters
7 might change people's comments that they have on that
8 which the staff would see differently and so forth.

9 When the Forest Service meets with a county
10 commissioner, they don't meet in a quorum. Their final
11 decision isn't that. But like in our case, the position
12 paper that the county commissioners signed, all three
13 that was a quorum, that should be the document that's
14 actually in the EIS for everybody to read to additionally
15 have that. That's why the county government resolution
16 through coordination could result in a different effect
17 into that document.

18 And in one of your suggestions here, it says
19 "Although not required by the CFR 36219, the record would
20 be improved." Well, I think there's a number of things
21 that could help improve the record currently as we
22 coordinate in the future that would show that different
23 in, again, all county government entities. The counties
24 need to do a little better job, too, to make sure we're
25 getting our input organized enough so that the Forest

1 Service isn't left hanging hoping that they're
2 coordinating, when it's maybe a collaboration or just a
3 singular commissioner commenting compared representation
4 of the minutes, the meetings and how that was arrived at
5 also to be included into the record; thank you.

6 MS. BECK: Thank you.

7 Okay; any other Interested Parties? Anything
8 to add? Anyone on the phone?

9 Okay; thank you on this issue, and we're going
10 to move to the next one which is Wild and Scenic Rivers;
11 is that right? Yeah, Wild and Scenic Rivers. So once
12 again, we'll try and follow the same format where Jim
13 will explain his understanding of your objections and ask
14 if he got that right, or if he needs to understand
15 anything else and he needs for clarification on some
16 things.

17 MR. PENA: This is Wild and Scenic River
18 Eligibility Determination. The Objectors for this issue
19 that we've captured are the Ten Lakes Snowmobile Club,
20 represented by Jim Voyles; American Whitewater, Kevin
21 Colburn; Glen Lake Irrigation District, Steve Curtiss;
22 Headwaters Montana, Dave Hayden; Sanders Natural Resource
23 Council, John Trochmann; and Josh Letcher, an individual.

24 And the objection issue summary is the lack of
25 supporting documentation to explain eligibility

1 determinations in the FEIS and the basis for changes made
2 to eligibility determinations in the -- I assume this is
3 from the DEIS -- violates the National Wild and Scenic
4 Rivers Act, NEPA and the Administrative Procedures Act.

5 And then we went through and captured some
6 quotes from multiple objections to illustrate what the
7 Objectors were finding a problem with. An example is the
8 Kootenai National Forest violated the Wild and Scenic
9 Rivers Administrative Procedures Act by finding certain
10 streams ineligible for wild and scenic river designation
11 based on its determination that the streams had no
12 outstandingly remarkable values despite the Forest's
13 prior and concurrent findings that the streams'
14 river-related values are outstanding and otherwise
15 exemplary. And I assume that is citing Star Creek and
16 Ross Creek as examples.

17 And then another example is we hold that the
18 following streams be considered as eligible for wild and
19 scenic rivers designation by the Forest and listed a
20 number of ones that we believe we overlooked.

21 And so that gives you a sense of -- on the
22 basis of the objections that we reviewed, what we pulled
23 out to capture the frame for the issue.

24 Review of Findings: In this particular case
25 what the Forest Service is needing to do is follow the

1 Wild and Scenic Rivers Act evaluation process in
2 reviewing potentially eligible streams or rivers in the
3 forest -- on the forest, go through the evaluation
4 process and make a determination whether it's eligible.
5 It's not making a determination that it is a wild and
6 scenic river, it's simply establishing its eligibility
7 for wild and scenic river status. Congress makes the
8 determination on whether or not it becomes a wild and
9 scenic river.

10 There are two basic requirements for a river to
11 be eligible for designation as a national wild and scenic
12 river. First, that it be free-flowing and that it
13 contain one or more outstandingly remarkable values. And
14 the act and policy has guidance and definitions for what
15 those represent. There are no minimum flow requirements
16 for a segment to be considered eligible except that the
17 flow must be sufficient to sustain or compliment the
18 outstandingly remarkable value for which the river would
19 be designated. And so one of the objections cited that
20 the Forest didn't choose a particular river or stream
21 course because of intermittent flows. And so they felt
22 that that was an inappropriate disqualification.

23 And so what the planning record shows upon our
24 review, supporting documentation is lacking in the
25 planning record to support the completion of the

1 eligibility determination and explain discrepancies
2 between the initial assessment of streams for potential
3 outstandingly remarkable values and the final eligibility
4 inventory documented in the FEIS.

5 So essentially, we didn't provide all the steps
6 in the document to be able to track how we got to the
7 recommendation.

8 Callahan and Wigwam Creeks were determined to
9 be not eligible because of other administrative
10 designations would protect their outstandingly remarkable
11 values. Star Creek was determined to be not eligible
12 based on a lack of outstandingly remarkable values.
13 Granite and Rock Creeks were found to lack outstandingly
14 remarkable values that are rare, unique or exemplary,
15 although supporting information in the record was
16 lacking. Grave and Quartz Creek were determined to be
17 eligible under two alternatives but ineligible under the
18 selected alternative. Seems to be a problem if you pass
19 the gate of eligibility, it should be common among all
20 the alternatives. And Ross Creek was determined to be
21 ineligible because it runs dry late in the summer.

22 So based on those -- the review and the -- what
23 the record shows, the Conclusions that we're coming to is
24 Objectors actively identified a deficiency in the Plan
25 record related to wild and scenic river eligibility

1 inventory, thus the record does not adequately support
2 the Forest list of eligible wild and scenic rivers or the
3 Forest determination that certain streams are ineligible.
4 Callahan Creek and Wigwam Creek were found to be
5 free-flowing and possess at least one ORV but were
6 wrongly excluded from eligibility designation based on
7 the conclusion that other administrative designations
8 would protect their outstandingly remarkable values. And
9 again, this is a determination of eligibility, not a
10 designation.

11 The initial eligibility for Granite and Rock
12 Creeks found them to contain one or more outstandingly
13 remarkable values, yet the FEIS concluded that neither
14 contained values that are rare, unique or exemplary
15 without further explanation or support for the change.

16 Grave Creek and Quartz Creek stream systems
17 were found to be eligible in alternatives C and D but
18 ineligible in the selective alternative modified B.
19 Determinations on whether a river or a segment is
20 free-flowing and possesses one or more outstandingly
21 remarkable values should be consistent across all
22 alternatives.

23 Forest Service policy states that there are no
24 specific requirements requiring -- concerning minimum
25 flows for an eligible segment. Flows are considered

1 sufficient for an eligibility if they sustain or
2 compliment the outstandingly remarkable value for which
3 the river would be designated. Consequently, Ross Creek
4 was determined to be ineligible based on grounds that are
5 inconsistent with the Wild and Scenic Rivers Act, agency
6 policy and interagency guidelines.

7 So in that particular case, unless there's
8 additional justification on why the intermittent nature
9 of the stream precludes or doesn't support the values, it
10 shouldn't have been included.

11 And so I'll stop there and see if the way we
12 framed this issue and what -- from the Objectors'
13 standpoints if I captured it correctly and, if not, I'd
14 like to hear from you on what I'm missing.

15 MR. COLBURN: Hi, Kevin Colburn with
16 American Whitewater. And we had a co-Objector on this
17 forest which is American Rivers. So we represent
18 Whitewater Paddlers and other river enthusiasts that just
19 really have a strong connection to the rivers in this
20 area.

21 So I think you got it mostly right. There's a
22 couple additional items I'd like you to consider when you
23 sit down. Some were comments from yesterday's
24 conversation, some are not. First is the issue of scale
25 of the zone of comparison. So in this analysis, the

1 Forest just looked at other rivers in the forest. And
2 our problem with that is that the Wild and Scenic Rivers
3 Act is supposed to look at nationally significant rivers
4 so -- as well as regional and local. So there needs to
5 be a look at multiple scales. And if a river is really
6 exceptional at any of those scales, it should qualify.
7 You can imagine if you live in Shangri-La which, for
8 rivers, everyone kind of does, you know, you would just
9 say all rivers are like this, they're not special. Well,
10 the rivers in this area, I think, having traveled all
11 over, are very special and very unique. So scale is one
12 of them.

13 You somewhat overlooked another determination
14 that a river was disqualified for not being free-flowing
15 and that's Swamp Creek. It was disqualified in the Plan
16 because there's a ditch diversion at the bottom end. But
17 as you know, you can have a dam at one spot on a river
18 and it doesn't render the entire stream or river
19 ineligible. So the section on stream adapt we think
20 should still be given due consideration. So that was an
21 omission.

22 Lastly, on the process level, on Graves Creek
23 which, I think, is probably the most -- I don't know if
24 contentious is the right word -- but it's in a lot of
25 people's backyards and very interested in it. Public

1 comment was considered in eliminating it from eligibility
2 between the DEIS and the EIS. And I just want to make
3 sure that that public comment was offering data not
4 votes, not opinions. Eligibility is supposed to look at
5 just the characteristics of the river. And you know,
6 when we sat down to provide feedback on all the rivers in
7 the area, we had a multi-disciplinary team. We had
8 fisheries biologists and recreation specialists and kind
9 of a large group of people and tried to offer data, not
10 just votes, not just an opinion, but a really hard look
11 at the rivers themselves.

12 So that's the biggest difference is from a
13 procedural standpoint. And I think you got a lot of
14 things right. It's just the analysis wasn't done right,
15 the work wasn't shown, so I think it deserves another
16 hard look.

17 And just one other thing. More substance-wise,
18 it is a really special place. These are really special
19 streams. We made a pretty harsh cut, we thought, in
20 recommending, you know, really just very few streams for
21 eligibility. And you know, we've seen a lot of
22 hydropower projects go in all across the country.
23 There's relatively few streams that are set aside for
24 protection. We think we're a pretty good number of
25 streams, and we think we're all valuable. We've seen

1 recent proposals for hydropower on similar streams. You
2 know, there's a dam on Lake Creek in Troy. There's a
3 proposal on Boundary and Boulder Creek nearby, so we
4 think it makes sense in looking at this and setting aside
5 a few streams from hydropower.

6 And Star Creek you mentioned, that wasn't
7 discussed in your -- kind of the tail end of your
8 briefing. So Star Creek -- we met with the Forest
9 Service and talked to them about that and noted there's
10 an outstanding special geologic area for Star Creek
11 Falls. And we asked the Forest Service to go just take a
12 look. I don't think that was done. And it was
13 disqualified. I was there last night. I have photos I
14 can show you, beautiful. It's right there. And I
15 know --

16 MR. PENA: I'm not here to make the
17 decision. I'm here to make a recommendation.

18 MR. COLBURN: I know, but I do think that
19 the Forest Service has already acknowledged that it's
20 outstanding and then expressly say but it's not
21 outstanding. So Star Creek, I still think, needs a hard
22 look.

23 MR. PENA: My recommendation would get at
24 that in making sure they have a consistent assessment.

25 MR. COLBURN: Right. And with that I'll

1 let other folks talk.

2 MR. PENA: Thank you.

3 MS. BECK: You're after John.

4 MR. TROCHMANN: John Trochmann, Sanders
5 Natural Resource Council.

6 There are so many pieces to work with here, I
7 don't know where to start. In your document Land
8 Management Plan, you have on page nine --

9 MS. BECK: John, the focus is whether he
10 got the question stated correctly. That's the question
11 for the group; did he understand the objection.

12 MR. TROCHMANN: I don't know where to take
13 it from here. There's so many problems with this issue
14 on the wild and scenic rivers. 16 USC was not applied to
15 the local citizens, for instance. I went up and down
16 Bull River and found no one knowing what was going on
17 there to their private properties. And I produced names
18 for you, phone numbers to contact to verify. On the Wild
19 and Scenic Rivers Act Section 6G, it talks about
20 condemning private property to put it into the wild and
21 scenic rivers area. And we know that's what happens down
22 the road after they've been in wild and scenic. Yet your
23 document allows or, should I say, courts people that want
24 to change our way of life here. Now, we all use
25 electricity. We're using it today.

1 MR. PENA: I need to know if the way I have
2 framed the issue, is it accurate to what the Objectors
3 said. I can't deal with what you feel are flaws in the
4 document. That's not the purpose for the discussion
5 right now.

6 MR. TROCHMANN: So how do we fix things
7 when it's coming between our eyes?

8 MR. PENA: Well, what I'm proposing is I've
9 laid out what I see the issue is, is we didn't properly
10 analyze the streams. Do you agree or not agree?

11 MR. TROCHMANN: Or the people.

12 MR. PENA: No, that isn't what I am saying
13 isn't involved. I'm saying that we didn't follow our
14 process to adequately evaluate these streams. And I'm
15 trying to understand did I get it right? I can't deal
16 with the analysis or the results that are in the document
17 right now because that's not the purpose of this
18 discussion.

19 MR. TROCHMANN: I have nothing further to
20 say then.

21 MR. PENA: Okay; thank you.

22 MS. BECK: Okay; just past you and then
23 you. Your name.

24 COMMISSIONER BERGET: Tony Berget, Lincoln
25 County Commissioner. You might have to do that all day.

1 MS. BECK: I will.

2 COMMISSIONER BERGET: A couple of things on
3 the -- it goes back to the previous, as well as this. I
4 never really felt like I got a clear understanding
5 through the process of what a wild and scenic river meant
6 to Lincoln County, what it was going to be. And when I
7 look up the definition and I see river, I'm sorry, I live
8 in an area where a creek and a river are two different
9 things. So how did we go from creek, stream,
10 intermittent stream, you know, to river? I've asked
11 these questions. I've also asked Montana Fish & Game,
12 What will this mean to you as you're managing for fish?
13 And they weren't sure because they hadn't been contacted
14 or consulted, sorry, I couldn't get that word out. So it
15 goes back to the other, but I feel like yes, the
16 definition -- what is a real definition of a wild and
17 scenic and what implications are those for our areas?

18 MS. BECK: I would say you're in the weeds,
19 but I'd say you're in the spawning gravels. So those are
20 questions that are kind of not at the level that we're
21 talking about here. And they also maybe go more towards
22 the coordination issue of having that dialogue. So
23 they're on the record and they're legitimate questions,
24 but they don't necessarily go to the remedy that's
25 being -- or how the understanding of the issue. So okay,

1 hang on, because he was waiting to go. You got it; okay.

2 MR. HADDEN: Dave Hadden with Headwaters
3 Montana.

4 I think that the analysis here was pretty
5 spot-on in most respects. I agree with the previous
6 comment with regard to scale, because I think the forest
7 scale was inappropriate for the nature of these rivers.
8 And I think your analysis stays within that parameter
9 scale. I think it needs to be expanded. So I think your
10 analysis errs in that respect.

11 I only have one suggested change, and maybe
12 this is under the remedies. But under the Grave Creek,
13 Quartz Creek section on page four, that you don't also
14 recommend that Grave Creek be -- that it was wrongly
15 excluded. I think you should, as you do with Wigwam
16 Creek for example, I think because of the inconsistencies
17 and because it has outstanding remarkable values it
18 should be listed as eligible.

19 MR. PENA: Are you saying that I missed
20 something that was in the record?

21 MR. HADDEN: Well, I think that in
22 your -- under the --

23 MR. PENA: Conclusions?

24 MR. HADDEN: Under the Conclusions section,
25 there's just an inconsistency in the way specifically

1 Grave Creek was determined on that particular point. You
2 say determination on whether a river or segment is
3 free-flowing and possesses one or more ORVs should be
4 consistent across all alternatives. Also that the river
5 was wrongly excluded as you do with Wigwam Creek. It
6 just seems like if one creek is omitted because of -- as
7 Wigwam Creek was --

8 MR. PENA: The point of that bullet,
9 though, is both Quartz Creek and Grave Creek were not --
10 the determinations were that they were eligible in the
11 other two and for whatever reason, they dropped it.

12 MR. HADDEN: You're asking for consistency,
13 but it didn't state that they should be reinstated as you
14 did rather exclusively under Callahan and Wigwam Creeks.
15 I'm sure of the inconsistency there, but I wasn't quite
16 sure why that distinction.

17 MR. PENA: Because I wasn't getting into
18 whether or not they did the analysis right. I figured
19 out that they had faulted the process.

20 MR. HADDEN: Okay; I understand your point;
21 thank you.

22 MS. BECK: Next in the green shirt, then we
23 come back to you and then you.

24 MR. MCKENZIE: Paul McKenzie, F.H. Stoltze
25 Land & Lumber Company.

1 I questioned your process a little bit,
2 Mr. Pena, in that you basically made decisions on
3 eligibility in the vacuum to some extent based on the
4 narrow confines on the definition of ineligible river.
5 Yet I don't think the Forest has that luxury in the
6 planning process to ignore the fact that when you have a
7 list or a particular stream or segment that is designated
8 eligible, it triggers other land management activities,
9 restrictions, what have you.

10 So I think there should be some latitude,
11 still, within the Forest Service. For example, standards
12 are triggered for vegetation management once a segment is
13 deemed eligible. So I think that there are some -- there
14 should be some latitude given to the Forest Plan to
15 consider these impacts on whether or not in the larger
16 picture a stream segment should be eligible. So I would
17 encourage you to consider that in your recommendation to
18 the acting forester -- the regional forester in the
19 decision-making process.

20 MS. BECK: Okay; thank you.

21 MR. COLBURN: I was just going to say that
22 some people brought up some questions about -- some
23 general questions about the Wild and Scenic Rivers Act
24 and specifically about condemnation and a creek versus
25 stream. I'd be happy to address those if we have time at

1 the end or off topic. So I do think answering some quick
2 questions could avoid future conflicts, which is the
3 point of this meeting. So let's leave that -- I'll leave
4 it up to you guys.

5 MS. BECK: Okay; thanks. If we can come
6 back to it after lunch, we might do that.

7 MR. BUTTS: Todd Butts.

8 I believe that, you know, if you look at the
9 Wild and Scenic Rivers Act, it says that a river must
10 have an outstanding remarkable value that is comparative
11 at a national or regional scale. If you ask anybody in
12 this room what regional means, as an American citizen, I
13 think we would think of Northwest, Pacific Coast,
14 Southwest, Midwest, that's a region. Therefore, I mean,
15 I believe according to the -- the intentions of the Act,
16 that the Kootenai National Forest is an adequate regional
17 scale for these evaluations.

18 I'm sure that Star Creek is a beautiful creek.
19 Now, is it outstandingly remarkable on a comparative
20 national or regional scale? I highly doubt it. So I
21 think that that analysis, that was fundamentally wrong,
22 you know, just because you have a wrong scale.

23 Another thing we -- you talked about is
24 consistency across these evaluations. And I have some
25 questions about that too. Because if you look at the

1 initial assessment report for a lot of these streams was
2 done in 2005. All these -- the majority of these streams
3 were listed as a no for the values that now they are
4 listed as a yes for outstandingly remarkable as. And
5 it's just -- we talk about consistency. How did that
6 magically change?

7 MR. PENA: So then I've captured the issue
8 correctly in that we didn't handle it correctly in the
9 analysis.

10 MR. BUTTS: Yeah. I'm just making some
11 points about maybe what wasn't handled properly.

12 MS. BECK: Okay; thank you. Are you done?

13 MR. BUTTS: No, one more thing. You said
14 that Congress must designate the wild and scenic river.
15 This is just about eligibility determinations. Then I
16 would assume that Congress also is the one in charge of
17 that. You can't start managing them as a wild and scenic
18 river just because they're eligible. Because there are a
19 lot of management implications that have wide-ranging
20 impacts that go along with the wild and scenic river
21 that, frankly, a lot of people in this room are afraid
22 of. So, you know, just if you call them eligible, that
23 doesn't mean that the Forest Service should be able to
24 start managing us as if they were congressionally
25 designated as wild and scenic rivers.

1 MR. PENA: I don't know our policy off the
2 top of my head to be able to respond to that. But that's
3 a step beyond where we're at. And the main thing I'm
4 concerned about is did we go through the process
5 appropriately following our process to get to the
6 recommended levels? How we manage them if they are
7 recommended, I don't know. And I would suspect that we'd
8 be -- that would be something we'd need to disclose in
9 the FEIS.

10 MR. BUTTS: Okay; I think the gist of my
11 comment is there seems to be a large departure from the
12 intent of the Wild and Scenic Rivers Act relative to what
13 we saw here in this Plan. So thank you.

14 MS. BECK: Okay; thanks. I'm going to ask
15 you to continue to focus your comments on Jim's
16 understanding of your objections. You're next, you're
17 next, and then we're going to go to the phone in just a
18 minute.

19 MR. CURTISS: Steve Curtiss, Glen Lake
20 Irrigation.

21 Mr. Pena, I concur that you probably have a
22 remote understanding of this process, and I appreciate
23 your evaluation. However, I think that it's probably not
24 gone quite deep enough. I also concur with Mr. McKenzie
25 in his evaluation of the ramifications of some of these

1 decisions.

2 Now, one of the things that was -- that there
3 are some of these -- you know, Grave Creek as an example,
4 was a yes at a point and then a no at a point. So that
5 appears to me to be a situation of one that's kind of
6 riding on the rail.

7 So to put a little more clarity to that, those
8 of us who have a private property in-holding on that
9 particular stream clear to the top of the mountain would
10 not in any circumstances feel that you would make a wise
11 decision if, in fact, it fell off the rail to the side of
12 erring that it was, in fact, qualified. Based on, as
13 Mr. Butts said, the actual Act itself, in my humble
14 opinion they don't qualify, especially in lieu of the
15 fact that we have that as a private property in-holding.
16 The potential of the decision that you make or don't make
17 has serious consequences for people who have private
18 property in-holdings near these streams. And I'm not one
19 to say that everyone can't enjoy that. I hope everyone
20 can enjoy that. And I feel that it's impossible for
21 someone to say that they can or can't raft down that
22 stream just because it is or is not classified as a wild
23 and scenic river.

24 And so I think that you are beginning to grasp
25 the concept. But there again, we go back to the earlier

1 discussion on these topics. Local government, certainly
2 knows and certainly should have a say at the table in the
3 decisions that are made on some of these things; thank
4 you.

5 MR. WEST: Kurt West.

6 I believe that you have the analysis. It is
7 flawed. A think tanker went through the analysis of
8 people that know the ground, especially up in the Grave
9 Creek and the Wigwam area. I agree with you, the
10 analysis is flawed. I believe that Grave Creek should be
11 taken off of it -- off the eligibility because of so many
12 different reasons.

13 Habitat like on Wigwam, you enter into bull
14 trout habitat being a qualifier for that. And knowing
15 that a very small portion of that bull trout habitat
16 resides in the United States, I was curious if the
17 analysis took you into Canada where most of the habitat
18 resides. So I just have that question for you on that
19 also. So I agree that it's flawed also. So you're in
20 the right direction there.

21 MS. BECK: Okay; I want to ask for any
22 Objectors that are on the phone if they wish to address
23 whether or not this -- Jim has accurately described your
24 objections. Okay; I'm not hearing anything on the phone.
25 I'm going to go to Interested Parties here in the room.

1 MR. MATTHEIS: Scott Mattheis, Montanans
2 for Multiple Use. This may be more of a clerical
3 situation. Under your planning record and in your
4 Conclusion you have Wigwam Creek. But in your remedies
5 you have Wigwam River. Are we talking about two
6 different places here, or are we talking about the same
7 thing?

8 MR. PENA: I think that's a misprint. It
9 should be the same thing.

10 MR. MATTHEIS: Because it is Wigwam River.

11 MR. PENA: Yeah. I think it's a --

12 MR. MATTHEIS: So you're telling me then --

13 MR. PENA: So I need to have the Forest
14 speak up here because I don't know that well enough, but
15 I'm assuming it's a typo.

16 FROM THE FLOOR: Yes, it's just one thing,
17 Wigwam River.

18 MR. PENA: So it's a river. Thank you.

19 MS. BECK: Other Interested Parties?

20 SENATOR VINCENT: Thank you. Chas Vincent,
21 Senate District 1.

22 And I'm going to -- I'm interested in your
23 analysis of -- in your analysis of what these eligibility
24 designations could do and disclosing those eligibility
25 considerations and what the impacts could be to some of

1 the things that we're hearing about private property,
2 state-based water right claims, those types of issues.
3 So I think when you look at whether or not you have
4 adequately assessed this, I think you need to look at a
5 couple of different things.

6 Disclosure, I'll start with that. I think that
7 the fact that while these are just considered eligible,
8 US Forest Service cannot do anything to harm those wild
9 and scenic values. They cannot do anything to harm the
10 water V's. Now, if there's designation by Congress, in
11 that case, the US Forest Service could not. Other
12 agencies could though. That's just the eligibility
13 nomination process. But when they're designated by
14 Congress, no agencies can, and there is usually a water
15 right, a federal reserve water right that accompanies
16 that designation.

17 Now, back to the other agencies that can,
18 Montana's Water Quality Act is basically we have primacy
19 over things like nonpoint and point discharging permits
20 under the Clean Water Act. How these eligibility
21 nominations can affect our ability to deal with some of
22 the new numeric standards that are coming down the pipe
23 that we are trying to adhere to in developing our new
24 rules to comply with that and our ability particularly
25 with assimilative capacity, we are looking at TMDLs. And

1 so those types of things. And I know I'm in the weeds
2 here, but those types of implications need to be
3 considered. And I don't believe that those implications
4 have been disclosed.

5 MR. PENA: Okay. So right now what we're
6 talking about is the process we went through to do the
7 eligibility. A number of people have brought up things
8 about once we've defined an eligible pool of rivers, what
9 are the effects of that. And so what you're talking
10 about is the effects. And so when we are asked to go
11 through -- and I'm not sure if this is the same as
12 wilderness, but whenever we revise a forest plan, I know
13 in wilderness we're asked to go through and make
14 recommendations on what areas are eligible or what areas
15 should be recommended for wilderness. And I'm thinking
16 that we have the same obligation, when we do devise a
17 forest plan, which rivers are eligible for wild and
18 scenic river designation. And so when I'm looking at
19 the -- what we found during the objections is we found
20 that the process we used to make the recommendations on
21 what rivers are eligible was flawed. I didn't really get
22 into whether or not that resulted in an accurate or a
23 complete disclosure of what the effect of either
24 recommendation or not recommendation of rivers are.
25 That's another question that would follow on. In my

1 view, we got it wrong to begin with, therefore, it's not
2 worth looking at the rest of it because we got the first
3 piece wrong. And so when we go back and redo the
4 analysis, it would be incumbent on us to appropriately
5 analyze the effects of those recommendations on
6 eligibility and go from there. So then the things that a
7 number of people are concerned about should be dealt with
8 at that point.

9 MR. VINCENT: Thank you. And that was --

10 FROM THE FLOOR: Can the phone people speak
11 up yet on this issue?

12 MR. VINCENT: One more comment, sir. And
13 that's what I was hoping that I could hear you say.
14 Thank you, because I know that was out up front or
15 behind, I'm not sure which side I was on.

16 MR. PENA: That's all right.

17 MR. VINCENT: But that's something I
18 believe is important. And it's also important in the
19 context of discussing with the county governments on what
20 this means to them, their custom and cultures and their
21 planning processes because it is huge. So thank you.

22 MS. BECK: Okay; it's noon. We'll hear
23 from folks on the phone. And then we have more time for
24 this topic after lunch. So as soon as we hear from the
25 folks on the phone, we'll take a break for lunch.

1 Go ahead, sir.

2 MR. SHAMLEY: This is Doyle Shamley.

3 I'd like to point out a couple of things. When
4 you go into the Wild and Scenic Rivers Act and you seek
5 out in a forest plan or other mechanism, but forest plan
6 today, speaking about the suitability and eligibility
7 process, I think it needs to be made known to everybody
8 that besides the first stage, Mr. Pena correctly asserted
9 that recently, because I got almost no decent sound
10 quality on this call, but he did point out that because
11 step one, loosely using that term, was flawed, there was
12 no point in really going to step two. But everybody
13 needs to know that when you go through the suitability
14 and eligibility process, whether Congress has done a
15 final declaration or not, if it met the criteria and as
16 he put recommended, at that point the agency will manage
17 as such in the guise or name of preserving the
18 characteristics that allow it to meet suitability and
19 eligibility. And the process itself and the criteria and
20 the analysis done can't be thoroughly completed without
21 that knowledge being in the back of everybody's head.
22 That once it meets suitability and eligibility
23 requirement, it will be managed as such, whether there's
24 a congressional delegation or not.

25 MS. BECK: Okay; thank you for that

1 comment. Anyone else on the phone, Objectors, Interested
2 Persons, wish to comment on this?

3 Okay; with that I'm going to call for a
4 lunch -- you need to make a comment before lunch? We
5 will revisit this after lunch. Would you like to comment
6 now or after?

7 MR. WEST: Just a quick one. Kurt West.

8 If there was any validity to that fellow's --
9 what he just said, is there a comment from the panel,
10 from Mr. Pena?

11 MS. KRUEGER: In wild and scenic river we
12 do a two-step process. An eligibility determination,
13 which Jim talked about, is the first step, and then a
14 suitability determination that's not required in the
15 Forest Plan decision. So what the gentleman was talking
16 about is when we have an eligibility segment, we do
17 protect those outstanding remarkable values and we do put
18 management prescriptions on those areas to protect them.
19 So I think that's what we're getting about and we're
20 saying it in different terms.

21 Ray, correct me if I'm wrong over there;
22 correct?

23 MR. SMITH: I believe you are correct.

24 MS. KRUEGER: And then the actual
25 determination of whether it is a wild and scenic river

1 comes from Congress, similar to our wilderness areas, as
2 Jim mentioned. So that's my understanding of the
3 process, eligible, suitability determination, and we can
4 find areas not suitable, and we can change the management
5 areas after the suitability determination.

6 MS. BECK: Okay; one more.

7 MR. COLBURN: Just one more point on that
8 topic. So when a river's eligible, the Forest Service
9 has to protect the values that could lead to designation;
10 that's it. So they don't have condemnation power. It's
11 not like designation. They don't create a management
12 plan. They don't create user capacities. They don't do
13 this kind of full suite of management. It's really just
14 whatever values they identified. So if it's geological
15 or recreational or whatever, they have to make sure that
16 that's protected and enhanced to the extent it would
17 limit the river's ability to be designated. That's my
18 understanding. If the Forest Service thinks differently,
19 please holler.

20 SENATOR FIELDER: One quick point, please,
21 from me.

22 MS. BECK: Go ahead.

23 SENATOR FIELDER: Senator Fielder.

24 As I recall in a meeting with the Kootenai
25 National Forest supervisor, I asked him a question about

1 why the Forest was making these recommendations or
2 nominations and if it was required by law. And I believe
3 what he told me, and we can go back and listen to the
4 tapes of that meeting to double check, but the answer I
5 received at that time was that it wasn't required by law
6 for the Forest Service to make these identifications. So
7 maybe during the lunch break someone could clarify that
8 for us; thank you.

9 MS. BECK: Okay; thanks. All right, that's
10 it on this one.

11 It's about five after. I don't know, can you
12 be back at 1:00? Let's try to be back at 1:00 for folks
13 that might be joining us on the phone. So thanks very
14 much for your participation this morning.

15 (Proceedings in recess from 12:08 p.m. to
16 1:11 p.m.)

17 MS. BECK: Welcome back and thanks for
18 getting back as quickly as you can. Sorry to kind of
19 smush your lunch up but the discussion is important.

20 So we are still on the wild and scenic
21 designation issue. And so I'll turn it back over to Jim
22 and sort of figure out where we are with that issue.

23 MR. PENA: Before the lunch break, we were
24 finalizing or finishing up on discussions around whether
25 or not the framed issue was right. And based on the

1 objections that were submitted, and generally, I think I
2 was getting the feedback that yeah, we had. You guys
3 gave us some feedback on the nuances and that we captured
4 those. So I'm ready to move to the proposed remedy for
5 this. And there's three points to the remedy I'm
6 considering at this point.

7 First, is put additional documentation on the
8 review completed at step five, which is the -- if I
9 understand it correctly, the synthesis piece of the wild
10 and scenic rivers evaluation, wild and scenic rivers
11 eligibility process. Highlight any discrepancies between
12 the initial assessment of the streams for potential
13 ORV -- outstandingly remarkable values and the final wild
14 scenic rivers eligibility inventory. Provide an
15 explanation for the rationale used to make final
16 determinations for all streams both eligible and
17 ineligible. And also modify eligible wild and scenic
18 narratives in appendix E to make it explicitly tied to
19 the outstandingly remarkable values identified in those
20 stream segments.

21 Next would be add Callahan and Wigwam River and
22 Ross Creek to the list of eligible wild and scenic
23 rivers. Provide additional support for eligibility
24 determinations for Granite Creek and Rock Creek. Come to
25 a consistent conclusion on eligibility on Grave Creek and

1 Quartz Creek systems across all final Environmental
2 Impact Statement alternatives.

3 Then clarify that other administrative
4 designations did not factor into the wild and scenic
5 river eligibility assessment, as such a consideration is
6 only appropriate at the wild and scenic river suitability
7 stage. If the Forest inappropriately found any river
8 segments to be ineligible based on other existing
9 administrative designation, the eligibility inventory
10 should be revised accordingly.

11 So basically if there's a more restrictive land
12 allocation that that river segment that was determined to
13 be eligible -- the eligibility stage that doesn't come
14 into factor for whether or not it's eligible, it would be
15 dealt with at the suitability stage whether it's suitable
16 for designation or not. So we basically took it a step
17 further than we should have, apparently.

18 And so that's the remedy that I'm proposing.
19 Basically I'm asking to go back and complete the analysis
20 and resolve the questions around how they got to the
21 determinations they did. And so with that, if they
22 follow the -- if they didn't follow the process and ended
23 up with an incorrect conclusion, that needs to be
24 corrected to completing the process. I'm not in a
25 position to determine whether they got it right or wrong,

1 I'm just determining that they didn't complete the
2 process, therefore, they've got to go back and complete
3 it and then make sure that they have all the complete
4 rationale for their determinations provided in the
5 analysis so that everybody understands the logic and the
6 basis for the eligibility determination.

7 So with that I'd like to hear feedback from the
8 Objectors and see if that is responsive to the objections
9 that we were looking at. And this is open to all
10 Objectors, not just the people that objected to the
11 particular issue.

12 MR. CURTISS: Steve Curtiss, Glen Lake
13 Irrigation District.

14 I guess one of the things that perhaps would be
15 a novel idea. This is a seriously contentious issue, the
16 management with which has the potential through the
17 designation of these rivers. Would it not seem that in
18 lieu of almost imminent litigation over this process, and
19 it's not by law mandated that you should do this, would
20 it not be something to consider to not have wild and
21 scenic rivers in this Forest Plan? That maybe we ought
22 to think about focusing our efforts on something that is
23 either mandated by law or -- I mean, you know, you don't
24 have the money to litigate. We don't have the money to
25 want to give you to litigate. So it makes me wonder if,

1 really, this whole thing is not maybe a really bad
2 notion.

3 MR. PENA: I'll consider that. I'm not
4 going to say that's a good idea or bad idea.

5 MR. BUTTS: Todd Butts. I would just
6 reiterate as part of the remedy that the scale for the
7 evaluation be appropriate at a regional level at the very
8 smallest.

9 MS. BECK: Thank you.

10 Go ahead, Kevin.

11 MR. COLBURN: Kevin Colburn, American
12 Whitewater.

13 MS. BECK: Some of the folks on the phone
14 said they're having a hard time hearing you guys, so if
15 you can hold the mic up real close.

16 MR. COLBURN: All right; will do.

17 Thank you for that proposed resolution. We
18 made a couple suggestions that are procedural so I hope
19 you'll consider those as well, including looking at Star
20 and Swamp Creek as processor errors not just substance
21 errors. So taking a look at both of those. Thank you
22 for preliminarily finding Callahan Creek and Ross Creek
23 and Wigwam eligible. I think those are wise and well
24 documented findings. So thanks for that.

25 I want to confirm that suitability --

1 MR. PENA: So we've got to be clear that
2 I'm not finding anybody eligible, but the analysis showed
3 that those were eligible. What I'm telling them is
4 they've got to back that up. If they can't back it up,
5 then they're not eligible.

6 MR. COLBURN: Okay; duly noted.

7 MR. PENA: The whole thing's a process
8 thing. It's not a substantive thing, from my
9 perspective. Because our review isn't saying they did it
10 right or wrong in making a determination. It's whether
11 or not they followed the process to get to a
12 determination. And so I just want to be clear on that.

13 MR. COLBURN: Okay; thank you. And then
14 also, you know, suitability is typically deferred until
15 there's a hydropower proposal or some other dramatic need
16 for that. So thank you for pursuing eligibility and
17 leaving it at that.

18 I do feel -- just to counter others' comments,
19 I do feel that eligibility determinations are required by
20 law, both by the Wild and Scenic Rivers Act as well as by
21 the Forest Service manual and the planning role. So I
22 would encourage you to look at those references.

23 And then lastly, basically what we're all
24 talking about here is screens, you know. It's what
25 rivers fall through the screen and are no longer eligible

1 and which ones are. So I would just encourage you to
2 think hard about the proposal that we made based on our
3 information. You know, don't let recreation fall out of
4 the mix.

5 Stream size is largely irrelevant. There's
6 good documents about -- from the Wild and Scenic River's
7 Council and Forest Service policy that as long as a
8 stream is big enough to support the value, it's big
9 enough to be wild and scenic. And that makes sense
10 because plenty of moderate-sized streams have dams on
11 them. Wild and scenic is the counter to dam building.
12 So it does make good sense.

13 And then with regard to the effects analysis, a
14 lot of people talked about private property rights. I
15 want to be clear nothing in our proposal includes private
16 property. We're not asking --

17 MR. PENA: So is the remedy on track?
18 Because I don't want to get off on other issues right
19 now.

20 MR. COLBURN: Okay. You mentioned that you
21 would do an effects analysis, and I think that's good.
22 But the way that the Wild and Scenic Rivers Act and your
23 regs are written, that shouldn't contribute necessarily
24 to whether a stream is eligible or not. If a stream has
25 one value that is nationally or regionally significant

1 and it's free-flowing, it's eligible. And I think it
2 makes great sense to talk to the public about what that
3 means. So I encourage the effects analysis, but it
4 shouldn't feed back and render streams eligible or
5 ineligible. I think that's it. So thank you for your
6 consideration.

7 MR. VOYLES: Jim Voyles, Ten Lakes
8 Snowmobile Club Eureka.

9 I think you really need to go back and look at
10 the original intent of the Wild and Scenic Rivers Act and
11 why the original rivers were included in that. And
12 that's where things are kind of supposed to be compared
13 to. We're down to looking at a bunch of trickling little
14 streams in some places. And then we look at things that
15 you want to put back in there now, like Wigwam. It's
16 been clearcut all the way up both sides of it. Now it's
17 overgrown jungle that hasn't been thinned and managed,
18 and that's a wild and scenic river? It just doesn't seem
19 to fit. So you really need to look at the original
20 intent when you go back to this.

21 MR. PENA: So going back and doing the
22 analysis correctly is what you're saying. Okay. And do
23 you think I capture that in this remedy?

24 MR. VOYLES: If they carry it out.

25 MR. PENA: If pigs could fly we'd really be

1 in trouble.

2 REPRESENTATIVE CUFFE: Thank you.

3 Representative Mike Cuffe.

4 And I would echo what Jim Voyles just said. He
5 did a very good job there. And I know we're not trying
6 to argue and respond, but I guess I can't help but think
7 how many of these little streams has there been a
8 proposed dam on and is that very likely to have a
9 proposed dam on? So I guess that's the primary thing I'd
10 like to say on that.

11 The other comment that is on the process is as
12 we're going through the thing, you know, I don't know how
13 many people have no idea that a wild and scenic river
14 designation could pertain to a very small stream. And
15 the average -- the average citizen that may be impacted
16 significantly has no real idea. And I question even
17 whether all of us involved with the process understand
18 what a proposal might mean from the response of other
19 agencies of -- I think probably a lot of Congressional
20 candidates think Well, geez, if somebody proposes it,
21 it's got to be good. And the notion of wild and scenic
22 sounds good. It's a warm and fuzzy sounding thing. But
23 it has some dire ramifications for folks who are trying
24 to earn a living. And when we talk about other ways of
25 earning a living such as tourism, well, we're not seeing

1 much of it. Thank you.

2 MS. BECK: Go ahead.

3 People on the phone, we'll get to you in just a
4 minute.

5 MR. HADDEN: Dave Hadden with Headwaters
6 Montana.

7 I just generally want to say I agree it is a
8 process issue. And that you in your analysis of it,
9 again, I agree for the record that I think your analysis
10 handles it very well.

11 I think for the benefit of the public, this is
12 a very open, transparent and appropriate way to go
13 forward. So I just would like to have that on the
14 record.

15

16 MS. BECK: Okay, two over there at the far
17 table. Actually, while they're handing the microphone
18 over, anyone on the phone have a comment they'd like to
19 make about the adequacy of the remedy? All right; go
20 ahead.

21 MR. MCKENZIE: Paul McKenzie. I was asked
22 to slow down when I speak, and I'll try to do that.

23 Mr. Pena, I have a question -- or a point on
24 your last remedy. And it talks about the difference
25 between eligibility and suitability. My concern is that

1 there are two different things going on. The bar for
2 eligibility is relatively low. I would assume the bar
3 for suitability is somewhat higher.

4 The challenge we have here is we have a Forest
5 Plan that has standards and objectives and other topic
6 areas that are tied to eligibility and not suitability.
7 And so my concern is that maybe we're using the wrong
8 metric there for the standards and objective that the
9 Plan uses. So I guess my comment to you from a process
10 standpoint is that maybe the Forest Plan needs to be
11 reviewed in that light and make sure that the standards
12 that exist elsewhere in the Plan are appropriate for an
13 eligible stream versus a suitable stream.

14 SENATOR FIELDER: Senator Fielder.

15 Before lunch I had brought up the point, and
16 I'm not clear yet, whether the Forest Service is required
17 to identify these streams for wild and scenic river
18 eligibility or not. The forest supervisor -- the former
19 forest supervisor said you were not. Can you let me know
20 or let us know? Are you required to do that before I
21 make my other comments?

22 MR. PENA: So at lunch what I gather is a
23 consensus from the specialist was we're required, like in
24 wilderness, to do the eligibility determination. We're
25 not required to do it in the Forest Plan at the time we

1 do the revision for suitability. Those are two separate
2 steps. The first is required and the second is not.
3 They're different steps.

4 And so what we're dealing with now is the
5 required step, which is the eligibility determination of,
6 like somebody mentioned, does it pass the screens to be
7 eligible.

8 SENATOR FIELDER: Thank you. So up until
9 now, that has not been made clear to us.

10 And with your conclusions here, I think you
11 need to also make sure that part of the remedy is then
12 that the landowners that are adjacent or possibly
13 encumbered by these designations or nominations,
14 identifications, would be notified and that the impacts
15 of the environment, economic and property rights, water
16 rights impacts would be disclosed. We've seen wild and
17 scenic rivers designations result in some infringements
18 on state-based water rights. So I think that information
19 needs to be brought forward in the Plan so people know
20 what the expected impacts are so they can weigh those
21 against the values of the designation or the nomination;
22 thank you.

23 MR. WEST: Kurt West.

24 I was just -- that's assuming that wild and
25 scenic and wilderness designations fall under the same

1 guidelines then?

2 MR. PENA: No, they don't. They're two
3 different Acts. There's two different objectives for
4 both of them. And so there's a different evaluation
5 process for both for wild scenic rivers, and there's a
6 different evaluation process for wilderness.

7 MR. WEST: But you went on to wilderness,
8 you know, with your folks in the -- sorry about that.
9 Anyway, with your -- at noon there when you had your
10 powwow, we were talking about wild and scenic rivers
11 designations.

12 MR. PENA: Right.

13 MR. WEST: But you said that it was --
14 well, your interpretation was wilderness. And I was just
15 wondering --

16 MR. PENA: No. What I said was there's
17 certain things that are required to be looked at when we
18 do plan revisions or plans. One of them is a
19 recommendation of what -- a recommendation for
20 designation as wilderness, and that's a recommendation.
21 It's not a designation for wilderness areas. It's an
22 evaluation of the wilderness areas.

23 The second thing that's -- another thing that
24 is required is that we need to evaluate the potential for
25 wild and scenic rivers that would be eligibility. And so

1 when I think Steve mentioned it, let's not even talk
2 about it in the Plan, it's not an option. We have to
3 evaluate it and we have to put it in and make some sort
4 of recommendation or determination based on eligibility.
5 We have the choice on whether we want to deal with the
6 suitability at the time we do the Forest Plan Revision or
7 write a new Forest Plan. And right now, the Forest is
8 taking the choice not to deal with suitability at this
9 time. I hope that clarifies.

10 MR. WEST: Yes, thank you.

11 MS. BECK: Okay; other comments from
12 Objectors? Yeah.

13 MR. LETCHER: Josh Letcher.

14 Just for the record, I want to get Grave Creek
15 and the Wigwam on there as both of them do have bridges
16 across them. They both have riprap on sections of them.
17 On Grave Creek some are ten to 15 miles long, has five
18 bridges, one dam, multiple irrigation diversions. Both
19 Grave Creek and the Wigwam have been logged up both
20 sides.

21 MR. PENA: So those factors ought to be
22 evaluated and used in the determination then.

23 MS. BECK: The guy with no name, I'm
24 calling on you next.

25 COMMISSIONER BERGET: Tony Berget, Lincoln

1 County Commissioner.

2 Just to follow up on the question over there.
3 If it's eligible, it will be treated as such. Is that
4 not what I heard you say earlier? I mean, if you
5 determine and put it into the Forest Plan as eligible, it
6 will be treated as such.

7 MR. PENA: It's my understanding that we
8 have an obligation to ensure that if it's eligible, we
9 don't do anything to diminish its ability to be
10 designated. So we wouldn't want to be able to allow any
11 activities that diminish the outstandingly remarkable
12 values for which it is being determined to be eligible.

13 So if a stream is determined to be eligible
14 based on fisheries and it's got all the other -- it's
15 free-flowing, then we wouldn't be allowed to do anything
16 that diminishes the fisheries value on that stream.

17 COMMISSIONER BERGET: So then could you
18 just go the step farther? Suitability. You're saying so
19 eligibility and then suitable --

20 MR. PENA: You just outran my headlights on
21 what I know between them.

22 COMMISSIONER BERGET: I guess that's the
23 problem we have. There's no sunset clause on any of
24 this. Once it's --

25 MR. PENA: The sunset clause is when

1 Congress decides to act.

2 COMMISSIONER BERGET: And that's the point.

3 So if you guys set it up as eligible, it's there forever,

4 you know. So to go from eligible to suitable, what's

5 really the difference if you're going -- if it becomes

6 eligible, it's treated as such until Congress, I guess.

7 MR. PENA: You're talking to the wrong

8 branch of government.

9 COMMISSIONER BERGET: But I guess that's

10 the thing. I guess I don't know the difference between

11 eligible, sustainable, and then we say well that's not

12 going to be suitable, when, you know....

13 MR. PENA: So it's my understanding -- and

14 so you're going to ask somebody that's not the right

15 person. So recreation person here, so what's the deal

16 with suitability?

17 MS. KRUEGER: So way back when I did

18 suitability a long time ago, we look at all the segments

19 that are eligible and do additional analysis to see what

20 is suitable to recommend in the wild and scenic rivers

21 arena. So we do protect the ORV for which it was

22 considered eligible.

23 And then in suitability, when we determine

24 another finer look at all of those factors, my experience

25 has been several of the segments that were eligible drop

1 out and the best of the best stays in.

2 COMMISSIONER BERGET: So can they come off?

3 I mean, that's the question.

4 MS. KRUEGER: And then through the
5 suitability analysis they do get removed. And that can
6 be a decision that you make in your suitability analysis.

7 MR. HADDEN: Dave Hadden, Headwaters
8 Montana.

9 I had one other process comment which relates
10 to scale that Todd Butts brought up. Your resolution
11 doesn't really mention scale, and I'm wondering if that
12 is something that will be looked at.

13 MR. PENA: So I captured that as something
14 I need to address.

15 MR. HADDEN: Just wanted to make sure of
16 that; thank you.

17 MS. BECK: Okay; Objectors?

18 MR. CURTISS: Steve Curtiss.

19 So Mr. Pena, that then begs of the position
20 that we have talked about so often. In a decision so
21 critical as this, I hope that we are truly allowed, as
22 local government, the opportunity to sit down to make
23 these decisions. I don't know that there's any group of
24 people more qualified to assist in this decision-making
25 process than those of us who are right here as local

1 government representatives.

2 MR. PENA: I've heard that, and I
3 understand that through the county coordination
4 discussion we had. I acknowledge that.

5 MR. CURTISS: And thank you very much. I
6 just have to continue to keep bringing it up as a very
7 high point of importance.

8 MR. PENA: I understand that.

9 MR. CURTISS: Thank you.

10 MS. BECK: Okay; Objectors?

11 MR. BUTTS: Todd Butts.

12 Just a quick follow-up on what Tony was
13 discussing, I think that we'd probably like to see that
14 analysis, you know, as strict to the Wild and Scenic
15 Rivers Act and its conservatives as possible from the
16 perspective that if these eligible streams are in limbo
17 for eternity or who knows, and yet we still have to live
18 with potentially restrictive management being imposed on
19 these streams because of that eligibility designation, we
20 would just like to know, limit our casualties on that as
21 much as possible, I guess, as a county and people here.

22 MS. BECK: Okay; we're running out of time
23 on this one. I've got to ask for Objectors on the
24 telephone next. Any Objectors on the telephone want to
25 offer a comment on this remedy? I wonder if there are

1 any.

2 MS. MCDOUGALL: There are two.

3 MS. BECK: There are two. Okay; thank you,
4 Leslie. Then we'll go to these two Interested Persons
5 and then we're going to move on because we have two more
6 issues to get through.

7 MS. SECORD: Pam Secord, Shoshone County,
8 Idaho.

9 I guess my question is in the evaluation
10 process, you're evaluating whether it fits the criteria
11 for wild and scenic rivers or wilderness. Just because
12 you establish that it could fit doesn't mean it has to be
13 recommended by the Forest; correct?

14 MR. PENA: Incorrect.

15 MS. SECORD: Incorrect.

16 MR. PENA: If it passes the screen to be
17 eligible, it is eligible.

18 MS. SECORD: So many places could pass a
19 lot of screens and then implement that.

20 MR. PENA: That's right.

21 MS. SECORD: Thank you.

22 MR. HUNT: Along the same lines, listening
23 to everybody's testimony, I get the impression we're
24 doing an EIS on the Lake Wobegon where every stream is
25 above average.

1 We see so many inputs being made, and let me
2 explain that a little bit. The Vermillion River was one
3 of the issues. I don't know which way it's been
4 resolved. The Vermillion River has been mined since the
5 1970s. It's been dredged in the '30s and '40s. It has
6 parallel roads on both sides. It is very pretty but is
7 hardly wild. And that's what I would like to bring to
8 your attention, specifically for every determination
9 eligibility, we do a site-specific visit. And I would
10 encourage people outside of the Forest Service to be
11 involved in that process. Because as a resident, and as
12 many people of these people are, they know the terrain,
13 they know the features of that river or stream. And they
14 can provide valuable information you can't get from an
15 aerial photo or drive-by. That's all.

16 MR. WIMER: Ken Wimer, property owner on
17 the Yaak River.

18 I'm concerned about the Yaak River which isn't
19 mentioned in there. The majority of property on the Yaak
20 River that's designated for wild and scenic was all
21 homesteaded in the early 1900s and isn't even Forest
22 Service property. Yet the recommendation that's being
23 made for the majority of it to be listed as eligible wild
24 and scenic river. So if you're going to review the
25 process, as a landowner adjacent to it, I'm concerned

1 that I may be restricted in what I could do, you know,
2 with my property or, as has been noted, possibly evicted
3 down the road.

4 So I want to make sure that when you review the
5 Yaak River, you check to make sure from what the
6 definitions were in the information provided, most of the
7 river doesn't even meet a scenic river designation let
8 alone a wild river. So I'm just -- if you're going to
9 review it, I want to make sure that that's considered;
10 thank you.

11 MS. BECK: Go ahead.

12 MR. MATTHEIS: Scott Mattheis, Montanans
13 for Multiple Use.

14 It seems like that screen that we're talking
15 about here just has framework. There's nothing in the
16 middle. So I think the analysis is flawed that it's too
17 broad what can go through that screen, that private
18 property rights and water rights should be part of that
19 analysis for that too.

20 MR. PENA: Unfortunately, the Act is pretty
21 specific on what the criteria is. And so the things that
22 you're concerned about, that I'm hearing concerns about,
23 aren't considered until we get to the suitability point.
24 And so I don't have the latitude to deal with those
25 concerns and eligibility.

1 MS. BECK: I'm hopeful that this will be
2 the last comment, because we're way over time on our next
3 topic.

4 SENATOR VINCENT: I'll make sure it's
5 brief. Chas Vincent, Senate District 1.

6 I would be hopeful that in your reviewing of
7 the process of the eligibility that we could also
8 consider whether or not we wanted to consider the process
9 of suitability in sight of this time frame in sight of
10 this Revision so that we could have a better idea of
11 knowing what was going to fall in and what was going to
12 stay -- or what was going to fall out and what was going
13 to stay in. So I would hope that -- I don't know what
14 the context is for other Forests and when that
15 suitability is determined when that site-by-site analysis
16 happens. But we had ten years of forest planning
17 process, I have a hard time understanding why it couldn't
18 have done inside of that ten years. So perhaps we could
19 take a look at that and get that done to answer a lot of
20 these questions and a lot of these Objectors; thank you.

21 MS. BECK: Thanks. Okay.

22 MR. COLBURN: If you're going to look at
23 suitability, we need to go back out for more public
24 review, more NEPA analysis. And just so everyone knows,
25 suitability is a recommendation to Congress. That's what

1 it is. So the result, yes, sometimes streams come off
2 the eligible list, but a significant roster goes forward
3 as a formal recommendation from the Forest to Congress.

4 MS. BECK: Okay; is there anyone on the
5 phone that would like to make a comment on the wild and
6 scenic rivers designation? Okay; we're going to call
7 this one wrapped up. Thank you for your comments on
8 that. And we're going to move to the third one.

9 MR. PENA: So thank you for the comments.
10 I need to close this out.

11 And so I made some adjustments per what I've
12 heard. Probably going to consider adding a couple more
13 points that need to be reflective of what I heard. One
14 is address the issue of scale. Although I heard it both
15 ways, so we'll see how I end up. The other is ensure
16 that standards in the Plan are suitable for application
17 to eligibility standards. And so if there's connected
18 actions in the Plan, for want of a better term, make sure
19 we track that through as we make adjustments in the
20 eligibility determinations. And then I would have a
21 discussion with the regional forester here about whether
22 it makes sense to deal with suitability now or not. So
23 thank you. I appreciate that. It's been helpful for me.

24 MS. BECK: Okay; you're now off the hook.
25 We're ready to dive into Wilderness and Wilderness Study

1 Area Management. We're close to on time.

2 MR. PENA: The way you were saying that I
3 was afraid we were well behind.

4 MS. BECK: No, no.

5 MR. PENA: I'm sure this topic will get us
6 caught up; right?

7 So Recommended Wilderness and Wilderness Study
8 Area Management. Objectors for this issue, the Montana
9 Mountain Bike Alliance, Greg Beardslee; Natural Resource
10 Defense Counsel, Brian Peck; Glen Lake Irrigation
11 District, Steve Curtiss; Montana Wilderness Association,
12 John Gatchell; Citizens for Balanced Use, Kerry White;
13 and then a number of individuals, Butch Gwynn, Dave
14 Bogleman, Gary Mason, Kurt West, Scott Baney, Josh
15 Letcher, and Mike Powers.

16 The issue summary is the alleged use of Region
17 One consistency paper has nondiscretionary direction, and
18 the decision did not recommend Ten Lakes Wilderness Study
19 Area for wilderness designation is based on impermissible
20 grounds.

21 And so there were multiple objections raised
22 around various issues of the management direction for
23 recommended wilderness areas. At the core of these
24 issues was the allegation that the regional policy had
25 been relied upon prohibit motorized and mechanized use in

1 recommended wilderness areas and that the policy had been
2 established without required public review and comment or
3 applicable NEPA procedures. Prohibitions of concern are
4 imposed on bicycles and over-snow vehicles.

5 In a related issue, an objector contends that
6 the responsible official is basing her decision to not
7 recommend the Ten Lakes wilderness study for wilderness
8 on impermissible grounds.

9 And so the Objection Issue Examples we went
10 through and covered a number of those. And this is
11 similar to what we discussed yesterday at the Idaho
12 Panhandle. To a certain extent, what is permissible in a
13 wilderness study area on nonconforming uses? In this
14 case, you know, some uses that could occur theoretically.
15 At what point does that activity affect the ability for
16 us to continue to have that wilderness values available
17 if it were to be designated as wilderness by Congress?

18 So what's required. Forest Service policy in
19 the Forest Service Manual is that once an area is
20 recommended for wilderness designation, any new or
21 existing activity that may compromise wilderness values
22 of the area must be prohibited. The Forest Service
23 Manual provides that the Forest Service policy on
24 management of recommended wilderness areas: "Any
25 inventory roadless area recommended for wilderness or

1 designated wilderness study is not available for any use
2 or activity that may reduce the wilderness potential of
3 an area. Activities currently permitted may continue,
4 pending designation, if the activities do not compromise
5 wilderness values of the area."

6 What the planning record shows is that the R1
7 consistency paper was nonapplied in a nondiscretionary
8 direction, although the planning record is not as clear
9 on this as it should be.

10 Under the 2013 Plan Revision process, the
11 entire Ten Lakes area, both the -- I'm not sure what MWSA
12 is -- Montana Wilderness Study Act, okay -- and
13 contiguous area evaluation rating was suitable for
14 recommended wilderness as identified in the appendices.
15 However, Alternative B Modified does not include the Ten
16 Lakes area recommended wilderness because of its lower
17 degree of solitude than other similar areas and the area
18 is valued by local communities for its over-snowed
19 motorized opportunities.

20 And it goes through a number of examples taken
21 from the record about evaluation of wilderness capability
22 and the need for roadless areas. There's some discussion
23 about the Ten Lakes final report of proposal. And
24 there's a long history you guys well know about going
25 back to 1985. And there's different segments that are in

1 play around Ten Lakes.

2 Conclusions that we reached based on the
3 analysis of the record and the objections and what the
4 standard is, is because the Region One consistency paper
5 was not intended to be a binding regional policy, neither
6 NEPA nor public review and comment opportunities are
7 applicable to the paper and the responsible official's
8 decision on management of the recommended wilderness
9 areas is consistent with agency policy at Forest Service
10 Manual. However, it appears the Forest has given the
11 public the impression in the FEIS that it relied on the
12 regional paper without further independent review in
13 making management decisions about recommended wilderness.

14 The decision to not retain Ten Lakes areas as a
15 recommended wilderness and its associated rationale
16 raises significant questions about compliance with the
17 Montana Wilderness Study Act and the 2007 Montana
18 Wilderness Association Wilderness Study Act Settlement,
19 as well as consistency with the 1985 final report to
20 Congress.

21 So that's what -- that's how I framed the
22 issue. It's how I understand the issues at play and what
23 we're required to do pending a conclusion. I'd like to
24 hear from folks if we are getting the issue correct and,
25 if not, what are we missing?

1 COMMISSIONER BERGET: Tony Berget, Lincoln
2 County Commissioner.

3 I just wanted to comment that Lincoln County's
4 first objection was listed as wilderness, and we're not
5 listed on there. I realize we have the opportunity, but
6 I just wanted to put that on the record that we filled
7 our first objection.

8 MR. PENA: Okay.

9 MS. BECK: Okay, Kerry.

10 REPRESENTATIVE WHITE: Thank you. Kerry
11 White with CBU and House District 70.

12 I was quite lengthy on our objection on this
13 particular issue. And I understand that you say that the
14 document is lacking in the direction, and that's the
15 issue that you believe. But I think there's additions to
16 that. I had put forward a FOIA request from the Forest
17 Service requesting the white paper that was referenced on
18 page 371 of the FEIS. I was provided a website to go to
19 to find that. Every time I pull it up, and I just tried
20 it again today, it's a restricted site. I do not have
21 the authority to see that site. So we don't even have a
22 copy of this white paper that's referenced, you know, in
23 the document. So I would request that. We really need
24 to see that white paper or provide us so that we can see
25 that.

1 The other one, of course, is the Forest Service
2 Manual 1920 which has been quoted quite a bit.

3 This goes back to a white paper. And I'm not
4 going to restate my objection or anything because that's
5 not why we're here. I just want you to understand the
6 issue. Brad Powell back in 2003 and then Abigail Kimball
7 and then Mr. Tidwell and now the new chief. So this has
8 been an ongoing, you know, for the last eleven years.
9 And we've requested several times and I think Sandra
10 Mitchell yesterday properly requested it, you know,
11 clarify on this issue.

12 But when you look at the action that's being
13 taken, I think you need to understand that this is a
14 significant action being taken by a policy that's not
15 really a policy. It's a philosophy that's never
16 adequately been taken through the NEPA process with
17 information, scoping, address, and need.

18 MR. PENA: What policy are you referring
19 to?

20 MR. WHITE: Well, the directive to remove
21 motorized and mechanized use in a proposed wilderness.

22 MR. PENA: So you're not referring to the
23 Forest Service Manual.

24 MR. WHITE: The Forest Service Manual
25 states that you have discretion, is what I'm saying.

1 What has happened, though, is when the Forest Service
2 implements their discretion, they have not gone through
3 the NEPA process on the implementation of what impacts
4 their action will have. If you had a directive or a
5 policy coming out of Region 1 or the United States Forest
6 Service and it was a significant action would have an
7 impact, significant impact that would be analyzed.

8 MR. PENA: You're losing me here. Because
9 the policy that we're implementing is the Forest Service
10 Manual, the NEPA disclosure, the FEIS, and this Plan on
11 the impacts of how we apply that discretion. So help me
12 understand what apparently I'm missing.

13 MR. WHITE: The impact of your action has
14 not been analyzed. And when you --

15 MR. PENA: Wait. You're saying the impact
16 of how we apply the policy as we described it in the FEIS
17 hasn't been analyzed?

18 MR. WHITE: Correct.

19 MR. PENA: So what you're saying is we
20 didn't appropriately analyze wilderness designations in
21 the Act -- I mean, in the FEIS.

22 MR. WHITE: No. What I'm saying is you
23 didn't adequately analyze the change of the use in
24 recommended wilderness areas and the effect it would have
25 because you've left that up to the discretion of the

1 Forest Service to be able to do that without analyzing
2 the impacts of removing motorized and mechanized use in
3 recommended wilderness areas. That has never been
4 analyzed.

5 MR. PENA: I'm not tracking. Because it
6 was my understanding that we did analyze that at
7 the -- with the FEIS. And so if that's what you're
8 saying, we didn't adequately analyze it in the FEIS, that
9 will help me understand where you're coming from.

10 MR. WHITE: Okay; what the ROD shows or the
11 FEIS shows is that these uses are not allowed in
12 recommended wilderness because they impact wilderness
13 character and could lead to these areas no longer being
14 suitable for wilderness designation. That is your reason
15 for taking that action. My -- I'm contending that you,
16 and this says "could lead to these areas no longer."
17 These areas have that use now, and they qualify to be
18 recommended as wilderness areas. Yet, in your paper, you
19 say that the uses, if they were to continue, would
20 degrade the wilderness. My question is have you analyzed
21 that and what do you -- or what are you going to put in
22 the FEIS, or what are you going to do, the Forest
23 Service, to quantify and substantiate what you have put
24 in your FEIS? Because there's nothing there.

25 MR. PENA: So I understand that I think

1 what you're saying is we didn't do an adequate job of
2 analyzing the effect of making that determination and so
3 the remedy needs to address that.

4 MR. WHITE: Exactly.

5 MR. PENA: Okay; thank you.

6 MR. WHITE: Thank you.

7 MS. ROBINSON: Amy Robinson with Montana
8 Wilderness Association.

9 As everyone knows, we've had a long-standing
10 interest in maintaining the wilderness character of the
11 Ten Lakes Wilderness Study Area. I know many of the
12 people here because of that interest. And I guess, in
13 sum, I feel like your conclusions about the issues are
14 generally very correct. And I wanted to say thank you
15 for understanding our concerns about maintaining that
16 wilderness character.

17 And the realities that the Forest Service
18 should not transform its failure to comply with the
19 Montana Wilderness Study Act into a reason to deny
20 recommended wilderness in Ten Lakes. And I think you
21 outlined it well that this loss of solitude and motorized
22 use together equaling a decision to not recommend
23 wilderness says something's gone awry; right?
24 Something's not being managed correctly. So I appreciate
25 that recognition.

1 What else? I think that's sort of a really
2 broad sum. I have some other pieces that I'd like to
3 include but maybe next up in the next segment.

4 MR. PENA: Okay.

5 REPRESENTATIVE CUFFE: Thank you.

6 Representative Mike Cuffe.

7 And in addition to the -- you know, I think the
8 written comments that I had made earlier are being
9 considered. But the questions at this point, and they
10 have, I guess, the previous discussion on eligibility
11 versus suitability and when I think of the years since
12 1987 and when we say Hey, no action can happen because it
13 might denigrate the quality. And at the same time the
14 opposite consideration; is there ever any consideration
15 made the opposite way? The things that I think of
16 particularly is the multitude of roads, some of which do
17 not show up on maps but they're clearly there, and if we
18 were to fly over there today in the bright sunshine they
19 would stand out vividly. And I've driven over some of
20 those roads. And in addition, up on Round Mountain in
21 that area, I worked on a clearcut. There's a large
22 clearcut up there that I worked on, and it's actually 50
23 years old.

24 MR. PENA: So do I have the issue right?

25 REPRESENTATIVE CUFFE: I'm not sure.

1 MR. PENA: What I framed here is that --
2 and I don't want to get into, you know, whether or not
3 what the qualities of the ground are because that's not
4 what this is about right now. It's about did I frame the
5 objection properly and have I got the issue teed up on my
6 Conclusions and whatever. So I think what I hear you
7 saying is if there's not conforming usage, you're
8 questioning whether it should be eligible and it's
9 appropriate for what we did originally. And so -- I
10 appreciate what you want to do, but I don't -- that's not
11 going to help me fix this right now.

12 REPRESENTATIVE CUFFE: Okay; I'll wrap up
13 very briefly here that for -- you know, since 1987, this
14 land has been tied up, the acreage has been tied up. And
15 clearly not then, and I think clearly by anyone flying
16 over it now, they're not suitable. They don't meet the
17 criteria. Thank you.

18 MR. HADDEN: Dave Hadden with Headwaters
19 Montana.

20 Again, I think that, briefly, your conclusions
21 are accurate. I think the point I want to clarify is
22 Forest Service policy, I was actually under the
23 impression that it was somewhat nondiscretionary. And
24 this clarifies for me that there is discretion and the
25 discretion was exercised.

1 And secondly, that the concern over the summary
2 of compliance with Montana Wilderness Study Act is
3 accurate, and I'll have other comments to say later on;
4 thank you.

5 MR. BUTTS: Todd Butts.

6 Just a couple of things. In the Conclusions,
7 you say that the consistency paper was not intended to be
8 a binding regional policy. But it seems like it's being
9 applied as a regional policy for the management of
10 recommended wilderness so, therefore, all the things that
11 were brought up as far as the public review and NEPA
12 analysis, if that becomes the Forest Service policy for
13 management of recommended wilderness, should be
14 considered.

15 Another thing is I don't know if you're aware
16 of, but the inventory roadless areas are essentially the
17 foundation for recommended wilderness or the precursor,
18 so to speak. And I can't speak to every proposed
19 recommended wilderness on the Kootenai National Forest,
20 but I do know that the inventory roadless area that is
21 the Thompson-Seton, which is the basis for the Whitefish
22 Divide recommended wilderness area, has all kinds of
23 roads in it. So therefore it becomes, you know, one of
24 these how do you have an inventory roadless area with
25 roads in if that evaluation was done properly?

1 Another thing that's kind of been brought up a
2 little bit is that if these areas -- I know Kerry kind of
3 brought it up. But you have say these uses of
4 over-the-snow motorized and mechanized bicycle use in
5 these areas that are -- have been determined to have
6 enough wilderness character or whatever to be eligible as
7 recommended wilderness, and yet if the designation of
8 those areas will then exclude those uses. Well, those
9 uses have been ongoing and the character is still there.
10 I don't know -- I don't think it's reasonable to assume
11 that a continued level of those uses is going to diminish
12 that character beyond repair.

13 MR. PENA: Okay. Did I get the issue
14 right, though?

15 MR. BUTTS: Yeah, to a degree. I mean, I
16 think there's always these little additions, if we're
17 trying to get the whole glass. I think the glass might
18 have been three-quarters full.

19 MR. PENA: So I think the issue is how much
20 nonconforming use can be allowed? And this is the issue
21 for the Forest. It's not the issue for me. It's how
22 much nonconforming use can be allowed before we exercise
23 our discretion to say it's not eligible -- or it's not
24 something we're going to recommend for wilderness? And
25 what I've been trying to say is the Forest needs to do a

1 better job of displaying that analysis so that everybody
2 sees what the basis for those determinations are.
3 Because right now, the policy says we can go either way,
4 but we've got to say why. That's what discretion means.
5 Our intent is, if we have a designated or a recommended
6 wilderness area, we want to make sure we maintain the
7 character so that when we go -- when Congress chooses to
8 designate it, it's going to be eligible.

9 MR. CURTISS: If.

10 MR. PENA: Well in this state, it's been a
11 long time since when, I agree. But we're asked to do it
12 as if it's going to happen. So that's one of the things
13 that is difficult to convey. Why would we be asked to do
14 something if we didn't think it was going to happen? And
15 the Act -- I mean, our regulations, the Act requires that
16 we evaluate that. And so I understand the "if" piece.
17 That's the reality. But the direction piece for law and
18 from our policy is we have to act as if it will be.

19 And that's the conundrum. Because we have to
20 be able to evaluate if somebody decides to put it into
21 law and designate it as wilderness, when it comes that
22 time, is it going to be able to serve the function that
23 the Wilderness Act expects it to? So that's where,
24 particularly over time, we get increasing uses into some
25 of these roadless areas and it's difficult to maintain

1 that pristine nature. And it's even far more difficult
2 when you're dealing with wilderness study areas where
3 Congress said Hey, you better consider this as a
4 wilderness area for wilderness designation. And we don't
5 have as much discretion on how we look at that.

6 And so I think it is really a tough question
7 for all sides of this wilderness issue; that the users
8 there that want to use this area because it's available
9 and it should be available to everybody. But we've got
10 some direction on land use that makes it tough to be able
11 to make it a clean-cut yes or no answer. And so what I'm
12 trying to get up is: Is the Forest needs to do a better
13 job of laying out -- based on what we found they didn't
14 do a very good job -- of laying out how they came to the
15 conclusions they came to.

16 There's some heads nodding up and down, so I
17 think I may be getting in the right area.

18 MR. BUTTS: You are. I just had one other
19 thing. Maybe it's a little bit of a clarification, but
20 with respect to Ten Lakes, which is already a wilderness
21 study area, I guess I don't necessarily understand why it
22 would need to be a recommended wilderness area on top of
23 being a wilderness study area.

24 MR. PENA: I don't think it does. The fact
25 that it's a wilderness study area is, by default, up for

1 recommendation. But it also carries with it how are we
2 going to manage it in the interim. Congress provides
3 some direction usually in those areas and we have our own
4 policy. That's how we have to set it. So when Congress
5 gives us direction, sometimes they say -- they can say
6 whatever they want, because they're Congress. So we need
7 to be able to reconcile that management. And
8 unfortunately, sometimes that stuff comes across as
9 discretionary when we go through a process like a Forest
10 Plan when, really, Congress gave us the direction.

11 MR. BUTTS: That's why I talk about Ten
12 Lakes is a congressional issue. Why do we need to make
13 it a Forest Plan issue?

14 MS. BECK: Okay; we'll have to come back to
15 you when this continues, because you don't have the mic.

16 MR. LETCHER: Josh Letcher.

17 You stated that you had to make it -- you had
18 to move forward as if -- it was Congress was going to
19 recommend or turn it into a full-fledged wilderness which
20 is hard for me to stomach because they can't in these
21 areas because of the 1964 Wilderness Act. There are
22 rules: Untrammelled by man, you know, no logging, no
23 roads. These areas are completely trammelled, completely
24 logged. You can't go back.

25 You know, some of the excuse is Well, you know,

1 they're growing out now and you can't see the roads.
2 That's only true, but you can't fight fires either. And
3 as soon as the trees are gone the roads stand out just
4 like the day they were made.

5 The other issue is within the municipal
6 watersheds. There's rules you guys are supposed to
7 follow to manage for these municipal watersheds.
8 Bozeman's in a big deal right now over theirs. So why
9 keep putting restrictions on the management options that
10 don't meet any of the criteria of the Act?

11 MS. BECK: Okay; yep, you.

12 MR. BARQUIN: Hi, Billy Barquin, Kootenai
13 Tribe.

14 I think you've outlined what the objection is.
15 It sounded like you were moving to remedies, so can we
16 move to the remedies?

17 MR. PENA: I want to make sure that folks
18 are still not -- I don't think people are ready to go
19 past the framing of the issue. I see at least one head
20 shaking no. So we'll have to wait on remedy for a bit.

21 MR. CURTISS: Steve Curtiss, Glen Lake
22 Irrigation.

23 Just to kind of reiterate some more of the
24 concerns, you know, Mr. Pena, one of the places that
25 we've come to is a huge level of distrust for the Forest

1 Service. And that's unfortunate. We feel that the
2 squeaky wheel gets the most grease, so we're going to
3 make sure that our wheels are squeaking bad.

4 I referred to this private property in-holding
5 a bit ago in our water right up Grave Creek which extends
6 clear to the top. We've been recognized in this Plan in
7 the fact that the dividing line on Grave Creek, one side
8 of it was set in the Plan that they recognized the
9 potential for catastrophic wildfire, yet the other side
10 of the stream is still in as recommended. So that shows
11 us that there's admission of the potential of a serious
12 problem.

13 I do recognize in this that you have gone to
14 the extent of recognizing that the process is flawed. I
15 don't believe, in my personal opinion, that it qualifies
16 because of these municipal watersheds because of the
17 potential and, therefore, I just continue to reiterate
18 there again before a decision is made that we should have
19 the option and the ability to sit down at the table again
20 and discuss these things to make sure that it is right
21 for everybody.

22 SENATOR FIELDER: Senator Fielder.

23 Mr. Letcher, I believe it is Josh, outlined
24 some of the same points I would raise, and that is that
25 it appears that there are roads in these inventoried

1 roadless areas. There are roads in these recommended
2 wilderness areas. They physically do occur, but on the
3 maps they have been omitted. So the people do not have
4 an opportunity to understand what was actually being
5 proposed in terms of the loss of access.

6 The socioeconomic data seemed to be based on
7 just a single organization. It was very old data from
8 the mid 1980s to the early 2000s. So what I think you
9 need to do here, as far as your framing of the issue, is
10 that there's some things that have been omitted. The map
11 of the roads, the socioeconomic data, due diligence on
12 the impact to the industries including, you know,
13 extraction and tourism as well as the impacts on forest
14 health from these types of designations in terms of your
15 limitations in not being able to address pests and
16 disease and watershed protection and to prevent
17 catastrophic wildfire conditions. So I would add to your
18 summation here that the process that was used was not the
19 right process for these designations.

20 MR. PENA: Thank you.

21 MS. BECK: Do we have any comments from
22 people on the phone? Okay.

23 MR. PECK: Was that a call for folks on the
24 phone?

25 MS. BECK: Yes; go ahead.

1 MR. PECK: You guys are a 110 percent
2 unintelligible beyond Mr. Pena. Can't understand a thing
3 that's going on.

4 I just wanted to clarify because of that.

5 MS. BECK: Could I get your name, please?

6 MR. PECK: Do I understand from -- both
7 from the written material and from -- hello?

8 MS. BECK: Yes.

9 MR. PECK: Mr. Pena's comments that the Ten
10 Lakes area will, in fact, retain its WSA status and
11 recommended wilderness status, or did I get that wrong?

12 MR. PENA: I haven't got it yet. I'm just
13 trying to frame up what we found in review of the issue.
14 And all I've said so far is the decision not to retain
15 Ten Lakes as recommended wilderness and its associated
16 rationale raises significant questions about compliance
17 with the Montana Wilderness Study Act and the 2007
18 Wilderness Association WSA Settlement as well as
19 consistency with the 1985 Plan final report to Congress.
20 We haven't got into remedy yet.

21 MR. PECK: Okay; so it's being revisited
22 maybe.

23 MR. PENA: Potentially.

24 MS. BECK: Can we have your name, please,
25 sir, on the phone?

1 MR. PECK: Yeah, Brian Peck with Natural
2 Resources Defense Council.

3 MS. BECK: Thank you.

4 MR. FIELDER: This is Paul Fielder, and I
5 just want to echo what Brian said about the
6 teleconference quality. The only person we can really
7 here is Mr. Pena, and it sounds like he's talking from a
8 large metal container with an echo background-type thing.
9 We cannot understand anything else anybody else says.

10 MS. BECK: I apologize for that. There are
11 issues with the volume in the room and the volume that
12 you're receiving. And we can't do anything more about
13 those. So I'm very sorry, and I just have to apologize
14 for that.

15 MR. FIELDER: I heard that transmission
16 fine; thank you.

17 MS. ROBINSON: I just wanted to -- Amy
18 Robinson.

19 I wanted to just voice my support for the
20 Kootenai decision to manage recommended wilderness
21 without motorized or mechanized use. And I think that
22 that -- I think the reason behind that it points to the
23 wilderness study area to Ten Lakes and the conflicts
24 around that. And it makes good sense, in my mind, to
25 maintain wilderness character and keep -- yeah, ensure

1 that those uses, you know, don't get established. And I
2 think that --

3 MR. PENA: So are you saying that I've got
4 the issue framed?

5 MS. ROBINSON: Yes, I'm just supporting
6 you.

7 MR. PENA: Okay; thank you.

8 So any more Objectors that want to comment on
9 the way I've got the issue framed?

10 REPRESENTATIVE WHITE: Thank you. Kerry
11 White with CBU, House District 70.

12 There might be something that you might want to
13 expand on that issue there, Mr. Pena. In my objection, I
14 included a letter on October 4th, 2007 from Sandra
15 Mitchell. A guidance document that was, I think, from
16 Abigail Kimball. And what her statement was, pursue a
17 nonmotorized, nonmechanized approach to management of the
18 area through travel planning. So I'm wondering if by a
19 blanket area closure to motorized and mechanized use in a
20 Forest Plan is premature to doing site-specific analysis
21 under a travel planning procedure later on.

22 We found this in the Beaverhead where they
23 closed large areas to motorized and mechanized use. And
24 then when they went to their travel planning on the
25 site-specific districts, they did not review any of those

1 roads and trails within those areas that were closed in
2 the Forest Plan, not allowing site-specific analysis at
3 the end of the process for people to comment on. It was
4 basically taken off the table. So I'm just not sure if
5 it's appropriate to do. You might take a look at that
6 under your process to see if it might be more appropriate
7 to do this site specific analysis rather than do a
8 blanket closure under a Forest Plan.

9 MR. PENA: Thank you.

10 MS. BECK: Do you still want to comment?

11 MR. MATTHEIS: Scott Mattheis, Montanans
12 for Multiple Use.

13 The analysis is flawed. And especially when
14 you base it on the 1964 Wilderness Act. And the
15 definitions are very clear in there for guidelines and
16 criteria to be evaluated. So I think in the '87 Plan
17 they got it wrong. And in the 2013 FEIS, they got it
18 right. They realized that that analysis was flawed and
19 it didn't meet the criteria. Because they also -- I
20 don't know if you're aware or you've put in the analysis
21 the many times that Congress has turned down that as a
22 wilderness, to designate it, and foresters that have said
23 that it doesn't meet the criteria.

24 And when they created the recommended
25 wilderness in the '87 Plan, the white paper didn't exist

1 at that time. So now you lay overlay recommended
2 wilderness on top of that, it's a whole different
3 management position than what -- and I think it's
4 plausible to assume that the '87 Plan still wanted the
5 uses that were going on at that time to continue. And
6 the white paper's what restricts it under recommended
7 wilderness, no over-the-snow or mountain bikes.

8 So in reframing that, the recommended
9 wilderness of today, I believe, is far different than the
10 recommended wilderness direction of 1987. I think it was
11 just an add to the area for Congress to consider, not to
12 change the uses in it. And that's the WSA we're talking
13 about putting that recommended wilderness.

14 And also, the implications of the Galton
15 project in this. Because if there's --

16 MR. PENA: The what?

17 MR. MATTHEIS: The Galton project which is
18 adjacent to the WSA. If you put more recommended
19 wilderness, I don't think the analysis was done for that.
20 In fact I know it wasn't. If you put more recommended
21 wilderness adjacent just across the road from the WSA,
22 then where do those recreational opportunities go?

23 MR. PENA: I'm not clicking on how that
24 deals with the issue I'm framing.

25 MR. MATTHEIS: The analysis is all flawed.

1 MR. PENA: Well, that's what I've been
2 saying. I guess you agree.

3 MR. MATTHEIS: I just wanted to recognize
4 the '87 Plan, the intent of it, I don't think, was to
5 diminish the uses that the WSA provided.

6 MR. PENA: Okay. But I'm not going to
7 resolve that today.

8 MS. BECK: Go ahead.

9 COMMISSIONER BERGET: Tony Berget, Lincoln
10 County Commissioner.

11 I guess I just wanted to add to that. You
12 mentioned quite a few times the Forest Service policy
13 manual. And there are variances and there's wilderness,
14 and they have different characteristics. There's
15 wildernesses that have, oh, I want to say airports but
16 not airports, runways. And so to blanket all the way
17 across on all of them to be treated the same, I fear --

18 MR. PENA: That's why it says we have
19 discretion. And so when I look at what Congress decides
20 to include in wilderness, and they have the final say.
21 If -- when I was in California they chose to put
22 wilderness areas in places that didn't make any sense to
23 me, but they didn't ask me. They did it. And we had to
24 manage it. And so when we look at what -- what I have a
25 problem with right now, where we have a problem with

1 this, is the Forest didn't go through and analyze these
2 proposals in a way that was clear to the public and
3 followed our procedures. That's what I'm saying.

4 I'm not -- you're not going to be able to get
5 me to say Ten Lakes should be in or out. That still has
6 to go through the process that's appropriately applied.
7 And so I -- I don't know how to be more clear than that.

8 MR. CURTISS: That's our concern.

9 MR. PENA: Well, I can't solve that concern
10 today.

11 MR. LETCHER: Josh Letcher.

12 I'd like to kind of step on a little bit of
13 what Scott Mattheis said there. The recommended
14 wilderness of before is different than the recommended
15 wilderness now. And like Tony was saying, airports used
16 to be used in wilderness. Well, now we're eliminating
17 them with recommended wilderness before Congress gets to
18 allow them to actually be there.

19 MR. WANDLER: Jerry Wandler with the Troy
20 and Libby Snowmobile Club.

21 I guess our concern deals with the Scotchman
22 Wilderness. The Scotchman Wilderness covers two
23 different forests, the Kootenai and the Idaho Panhandle.
24 And so the availability need and capability were done, I
25 assume, separately because they're two different forests.

1 The need on the Kootenai side should have been low
2 because there is a wilderness across the street. But on
3 the Idaho Panhandle side, according to them, it's a
4 hundred miles away. Yet in reality, it's one wilderness
5 or recommended wilderness, yet two different views based
6 on, I guess, the forest, their analysis steps. So
7 there's a flaw there, because one says one thing, one
8 says another because of the way they have to be
9 evaluated. So that -- that troubles me in that case.

10 It seems to me that if Congress decides to
11 create a wilderness, let's say the Scotchman, it may well
12 come back to the communities and say Is there anything
13 here that we should know before we do this? And, of
14 course, the Idaho Panhandle decided to include some past
15 management activity by changing the boundary in their
16 proposed wilderness. Now, Congress would say -- somebody
17 may bring that up and say That's probably not a wise use
18 or a wise choice, so why don't we remove it? And I'm
19 kind of thinking that before it may be designated, they
20 might take some additional input from the forests there
21 that are surrounding that.

22 I think that will do it; thank you.

23 MR. PENA: Thank you.

24 So a piece of what I picked out of your comment
25 was I probably need to include in my remedy making sure

1 that the analysis for the Scotchman between the Kootenai
2 and the Idaho Panhandle is properly coordinated.

3 MR. WANDLER: Jerry Wandler, Troy and Libby
4 Snowmobile Club. Yeah, that's probably -- now, how does
5 a situation like that work?

6 MR. PENA: I don't know. That's what
7 they've got to figure out. But what resonates for me is
8 I could envision a scenario of over twelve years they
9 have been working on this and one forest is looking at
10 one side and another forest is looking at another side.
11 I don't know that they haven't coordinated. But I think
12 it's important that we make sure that we ensure that that
13 happens and that our analysis is able to account for it;
14 if we do come up with different recommendations that we
15 have the rationale to support what we are recommending.

16 MR. WANDLER: Okay. The other item would
17 be when boundary changes are made based upon their
18 decision, we don't know why they made them. We don't see
19 those results. And I think that's a critical part.
20 Because we ask for boundary changes, never heard why or
21 why not, as well as the others included why or why not.
22 So I think there's a lot of room for improvement there.

23 MR. PENA: Yeah.

24 MR. HOUGH: Phil Hough. I'm with the
25 Friends of Scotchman Peaks.

1 You might surmise I have a little different
2 take on things from Jerry, but I'll speak to the points
3 here raised. When you're dealing with conformity and
4 coordination of two forests, I believe one of the reasons
5 it's the KPIZ, the Kootenai-Idaho Panhandle Zone, was to
6 coordinate some of these issues. And in general, I think
7 the forests have done a fairly good job of that.

8 In specific, along the border where the
9 Scotchman lies, one of the differences for you to
10 consider going forward is the 1987 Plan and the Idaho
11 Panhandle is silent on some of these uses, which some
12 have interpreted as allowing them. But in fact, it just
13 doesn't touch on them. Where, on the Kootenai, it
14 actually specifies some of the motorized/mechanized uses
15 that are nonconforming and doesn't allow them. In
16 specific, the Scotchman Peaks, the Kootenai Forest,
17 prohibit snowmobiling where the Idaho Panhandle Forest
18 has, to date, allowed it in the recommended wilderness.
19 During the planning process, the attempt is to reconcile
20 that.

21 One of the things that has happened as an
22 example in this area, is that some pieces of the
23 Scotchman Peaks that were in recommended wilderness that
24 still currently are until there's a Record of Decision in
25 the Draft Plan, have now been excluded to accommodate

1 those nonconforming uses. So to some degree boundary
2 adjustments have been taken into account to try to
3 rectify these issues.

4 I would suggest that if we are going to reopen
5 up analysis of allowing nonconforming uses in recommended
6 wilderness, we should also look at broadening the area
7 for recommended wilderness to take into account a greater
8 number of acres. There are those, some in the room, some
9 not in this room, who would say that we have a very low
10 percentage of wilderness on the Kootenai Forest, about
11 four percent, the least of any forest in Montana, none
12 designated since 1964. And in fact, there's a great
13 need, a great opportunity for us to manage more areas as
14 recommended wilderness for their benefit while still
15 maintaining active management forest in those areas that
16 aren't recommended wilderness. So I would offer that
17 going forward, too. If we're going to analyze the
18 process of re-evaluating it, we also look at perhaps
19 increasing some of those areas.

20 MR. PENA: Okay.

21 MS. BECK: Todd, were you next.

22 MR. BUTTS: Unfortunately, maintaining
23 active management on the other part is not so easy. Now,
24 I've been distracted and forgotten my point, so I'm going
25 to hand it to Dave until I can remember.

1 MR. PENA: So I'm getting the feeling like
2 I've got the issue and I'm hearing a lot of other stuff
3 that maybe something that I can get to on remedies here.
4 So why don't we have Dave be the last person, and then
5 we'll check with the phone and Interested Parties and
6 then we're going to move on.

7 MR. HADDEN: Dave Hadden.

8 I was just going to raise the issue of order.
9 It seems like we're drifting off subject, and I
10 appreciate you bringing it back; thank you.

11 MS. BECK: Okay, interested Persons.

12 Okay, anyone on the phone wish to make a
13 comment? Is there anyone on the phone that wishes to
14 make a comment on wilderness study?

15 MR. FIELDER: I heard that. This is Paul
16 Fielder. I do not wish to comment on that issue.

17 MS. BECK: Okay; thank you.

18 MR. PENA: Going to Remedy. The Remedy
19 that I'm considering is reviewing, clarifying as
20 appropriate any documents in the record referencing the
21 Region One consistency paper. I think, as best I can
22 tell, this is the document you're referring to, Kerry,
23 about it not being adequately vetted. To reflect that
24 the paper's not binding policy but is instead a reference
25 to be used to assist Forest as it considers management

1 options for recommended wilderness.

2 The FEIS and ROD should also describe the
3 Forest's independent consideration of forest specific
4 issues pertaining to recommended wilderness management
5 decisions. In doing so, the Forest should provide a more
6 detailed explanation of the nature of impacts for
7 motorized and mechanized uses to wilderness capacity and
8 availability as well as why prohibiting these uses was
9 the best management decision for recommended wilderness
10 areas on the forest.

11 Reinstatement of the allocation as recommended
12 wilderness for the Ten Lakes MWSA and IRA consistent with
13 the 1985 final report to Congress and the 1987 Forest
14 Plan. Describe the specific desire, conditions,
15 standards, and guidelines for management of Ten Lakes
16 that must differ from general MA1B recommended wilderness
17 direction in order to comply with the Montana Wilderness
18 Study Act and the 2007 settlement agreement and the
19 Region One supplemental direction to Forest Service
20 Manual.

21 Specifically, this will include access and
22 recreation standards that allow for some over-snow
23 vehicle and mechanized use where it maintains the
24 wilderness character as it existed at the time of
25 designation and the potential for inclusion in the

1 National Wilderness Preservation System, the 2013
2 Plan -- Kootenai Revised Forest Plan. In effect, this
3 Ten Lakes direction would be consistent with Wilderness
4 Study Area prescription provided in the Revised Forest
5 Plan.

6 The ROD should also explain why Ten Lakes will
7 be managed differently than other recommended wilderness
8 and any impacts that are -- that the forthcoming Galton
9 travel management EIS may have on future management in
10 the area. If any future evaluations of Ten Lakes result
11 in determinations that vary from the '85 report including
12 rule of acreage from all recommended wilderness, Congress
13 should be appropriately notified.

14 And then I also would add analysis of -- or
15 making sure we coordinate the analysis of the recommended
16 wilderness between the two forests in the Scotchman area.
17 That's something I just want to catch.

18 That's what I'm proposing for Remedy. I need
19 to hear feedback from you, Objectors, to begin with to
20 see if this meets -- is consistent with what people are
21 thinking.

22 MR. BARQUIN: Billy Barquin with Kootenai
23 Tribe.

24 Thank you for getting to Remedies. I decided
25 to wait until the Remedies portion rather than the

1 Conclusion portion to make some comments. And that is, I
2 think there's a bit of who's making what direction at
3 what level of the Forest Service on this issue. I
4 disagree a bit with the remedy that says "as well as why
5 prohibiting these uses was the best management decision
6 for recommended wilderness areas on the Forest," in the
7 second bullet there. And that is, I think the Forest and
8 the -- the two different Forests believe that they had
9 direction from the Washington office or from the regional
10 forester through the Region One consistency paper, from
11 someone, that they had eliminated all nonconforming uses.
12 So I think that the better remedy is let's analyze as to
13 why allowing or not allowing certain uses in recommended
14 wilderness areas will protect the wilderness
15 characteristics for which the recommendation was made. I
16 think that will be get us to the point where certain
17 existing uses can probably continue because it's not the
18 reason that we are recommending wilderness. But I'm not
19 really sure that that full analysis has happened.
20 Because I think that it was more -- it wasn't necessarily
21 a perception that the Forest gave to the public. It may
22 have been more a perception of what the Forest believes
23 the Washington office had directed to it.

24 MR. PENA: So what -- what I think I hear
25 you saying is that second remedy point should read,

1 effectively, instead of justifying why we did the
2 prohibition is analyze whether what is needed in order to
3 maintain character relative to nonconforming uses.

4 MR. BARQUIN: Right. I'd also point out it
5 should be KNF rather than IPNF. But yes, that's exactly
6 it. The Wilderness Act requires that. In the Forest
7 Service Manual directive it says "require that when we
8 recommend wilderness areas we protect" -- "that we manage
9 that area to preserve the wilderness characteristics."
10 Well, that analysis I think hasn't occurred to the extent
11 it should. And I think we need to do a better analysis
12 of all of the recommended wilderness areas to determine
13 what uses can occur that will still protect and preserve
14 the wilderness characteristics for which it's been
15 recommended.

16 MR. PENA: Okay; good. Thank you.

17 REPRESENTATIVE WHITE: Kerry White, CBU and
18 House District 70.

19 And I appreciate that. You probably said it
20 better than I could, way better. But just -- you said
21 for the Forest Service to document why they came to that
22 conclusion. And I would expect analysis to be included
23 in, not just document why.

24 Also point out the fact that wilderness study
25 areas, the Montana Wilderness Study Act, the use that was

1 enjoyed prior to 1977 shall remain. That's part of the
2 Act. In other words, they were going to study it for
3 wilderness, but the uses that were allowed and were there
4 would remain. So I don't think that use analysis and the
5 effect that it has on wilderness has ever been done. And
6 I think that that is a critical component of this. And
7 also point out that if you're going to decide which road
8 or trail and what use is allowed, that needs to be done
9 on a site-specific basis much like the wild and scenic
10 rivers where you can't paint it with a broad brush. And
11 I think that's more appropriately done under travel
12 management as a site-specific analysis versus a region or
13 watershed; thanks.

14 MS. BECK: Let's go here and then here.

15 MR. VOYLES: Jim Voyles, Ten Lakes
16 Snowmobile Club.

17 To clarify this just a little bit further, I
18 think they're all kind of beating around the bush at it.
19 When an area comes up for new wilderness designation and
20 we've been riding snowmobiles there for fifty years and
21 now you consider it to be eligible for wilderness, what
22 part of maintaining the wilderness quality means we've
23 got to quit riding our snow machines there? We've been
24 doing it, and apparently we've upgraded the thing to now
25 you're looking at making it a wilderness. So we have a

1 hard time understanding why all mechanized use stops
2 because you recommend an area, when it's been going on
3 same as in wilderness study areas.

4 MR. HADDEN: Dave Hadden, Headwaters
5 Montana.

6 I generally agree with the remedies. On the
7 point about just the Consistency Paper, there's been
8 advocacy in some respect for doing a site-specific
9 analysis of conforming uses or what's compatible with
10 making designation or not. My understanding of the
11 Region One policy papers is this issue recurs throughout
12 the forests of the region, and it's a matter of trying to
13 be consistent across forests which helps people
14 understand the policy around recommended wilderness. So
15 when different recommended wildernesses become subject to
16 individual analysis, not only is it cost-expensive to
17 taxpayers, but it's also a burden on the Forest Service
18 to do those individual analyses, I would think. So I
19 would -- there's been advocacy for doing site specific.
20 I guess I would just say be consistent with the policy
21 you reference here and perhaps explain -- direct the
22 Kootenai Forest directive to explain why they would
23 deviate from a Region One policy which has been fairly
24 well considered.

25 MR. PENA: So what I understand, if this is

1 referencing the consistency paper, the consistency paper
2 wasn't intended to give direction that it has to be done
3 a certain way. It's my understanding it was -- its
4 intent was to reinforce what the Forest Service policy
5 is, which is we have to maintain our options for
6 wilderness. And so going to your point, if we have an
7 area that's being recommended now that has a history and
8 a use of a certain amount of nonconforming use impact,
9 and we're making a recommendation for wilderness, my
10 expectation would be is we would have to go through and
11 evaluate what a nonconforming use impact is to that
12 wilderness character. And is it going to -- if it
13 continues, will we still be able to meet the wilderness
14 character attributes for it to remain eligible and for it
15 to be able to be managed once it is -- if it is
16 designated down the road by Congress. And so there is a
17 lot of things that if we go -- when we go down that road,
18 it just creates a lot more opportunity for people to
19 dialogue because there's not going to be one view at all,
20 I'm sure, on what is the impact of a nonconforming use.
21 And so, you know, that's the reality. But our policy
22 says nonconforming uses are not blanketed precluded but
23 they are precluded to the extent that they don't allow us
24 to maintain wilderness character and eligibility for
25 designation as a wilderness area. So the requirement or

1 the obligation for the Forest is is to come up with the
2 rationale to explain, one way or the other, either why it
3 does or why it doesn't and provide that rationale.
4 Because that's basically what our policy asks us to do.
5 And so the remedy here, I think, strengthened from the
6 comment that Billy provided is, is that we need to
7 analyze whether the nonconforming use will allow it to
8 remain eligible, not blanket disallow nonconforming uses.
9 And so that -- that's the analysis that I can see. And
10 the remedy that would potentially address a lot of
11 people's concerns. By providing this as a remedy, you
12 have to understand I'm not directing them to do it one
13 way or the other. They've got to do the work to analyze
14 it and make the determination on some basis of whether or
15 not nonconforming use meets our policy standard of it
16 still remaining eligible and we're protecting the values.
17 So she's within arms' reach so I know I could
18 be choked at any time. So I want to look to Faye and see
19 if that makes sense to you.

20 MS. KRUEGER: Yeah, I understand what
21 you're saying.

22 MR. PENA: Yeah, okay. So I also want it
23 to be clear that I'm not telling you that this is what
24 I'm going to do. I'm telling you that's what I'm taking
25 away from this meeting as a way to resolve this issue.

1 So it's under consideration.

2 MS. ROBINSON: I just wanted to generally
3 say I agree with your remedies. I also just wanted to
4 point to the -- a couple items in the last paragraph
5 around the travel management plan in the Galton area,
6 which I think somebody brought up earlier. With our
7 settlement agreement with the Forest Service, that travel
8 management process was supposed to be done five years
9 ago. So we've been waiting patiently, as I'm sure you
10 guys know. And we're waiting to see sort of what happens
11 and, you know, what the Forest comes out with in that
12 Galton travel plan. Because as you say, at least my
13 interpretation of what you just said, Mr. Pena, the short
14 and sweet version, is it's a slippery slope to maintain
15 our wilderness character and allow historical uses in
16 that area as well.

17 So we'd also really like, for what it's worth
18 and you probably don't know right at this moment, but
19 really would like a firm deadline or commitment about
20 when to expect that travel plan out because it's an
21 important piece of the puzzle.

22 MR. PENA: You need to talk with the Forest
23 people. I don't have that ability.

24 SENATOR FIELDER: Senator Fielder.

25 Thank you, Mr. Pena. I appreciate your

1 comments just now on the analyzing the nonconforming uses
2 to see if you're meeting the definition and the criteria,
3 because it seems that the criteria and the definition of
4 wilderness as defined in the 1964 Wilderness Act has been
5 overlooked. And I think it's important that we identify
6 a document and recognize those past and existing uses
7 that are in these areas. And that's going to bring a lot
8 of clarity, I think, to the whole issue.

9 Again, I'm just going to reiterate that with
10 these designations, whatever they may be, there needs to
11 be full disclosure about the economic, social and
12 environmental impacts associated with the restricted use
13 and the restricted management that comes with any type of
14 recommended wilderness area. Thank you.

15 MR. LETCHER: Josh Letcher.

16 Amy touched on the lawsuit they had there.
17 That's based on a wilderness study area in the -- down by
18 the Gallatin which is a place that's increased in
19 population by a hundred-and-some-thousand people since
20 the wilderness area -- or the wilderness study area was
21 initiated in 1977. Our wilderness study area at Ten
22 Lakes Wilderness Study Area is in a county that the
23 population has increased by 1500 people, not a
24 hundred-and-some-thousand in the last thirty-five years.
25 So that's something you guys may want to consider when

1 you're looking at overuse. Eureka at one time, when the
2 wilderness study area was made, had five snowmobile
3 dealers in the area. We have zero now. Libby is the
4 closest one. It's an hour and a half away.

5 Some of the other stuff, you know, that when
6 the Forest Service is doing their analysis or reanalyzing
7 it, they might want to include the usage studies that
8 they were required to do to go along with these
9 wilderness study areas.

10 And also, on the Galton project that Amy had
11 talked about there, we had a collaborative group that met
12 all of last year. And at the end of that we came up with
13 a plan that we had 100 percent consensus on.

14 MR. BUTTS: Just a couple things.

15 It was pointed out about the extra analysis.
16 Anyway, with that extra analysis for those recommended
17 wilderness areas, I'd hope that economics would fall into
18 that analysis.

19 The other thing would be when looking at
20 the -- you know, the IRAs being the building blocks of
21 the recommended wilderness, I would hope that the
22 analysis of the existing IRAs would be done to eliminate
23 those acres that actually have roads in them and only,
24 you know, have what remaining IRAs be inventoried
25 wilderness areas.

1 And then the last thing is, I guess I'm still
2 not clear why we would need a recommended wilderness on
3 top of a wilderness study area in Ten Lakes.

4 MS. BECK: Okay; I'm not qualified to
5 answer that question. You want to hand the mic back to
6 Dan?

7 MR. DINNING: Dan Dinning, Boundary County
8 Commissioner. First time I've spoke today.

9 I did want to put on the record, again, the
10 comment I made yesterday was I think it would be good for
11 the public to see the analysis somewhere of why lands
12 that were not designated recommended wilderness in the
13 '87 Plan are now eligible. Has there been filter
14 changes? Has there been -- just for the community or the
15 public to understand would be a good analysis at some
16 point; thank you.

17 MS. BECK: Thank you. Let me ask for any
18 more Objectors' comments on the phone. Any Objectors on
19 the phone? Any Objectors on the phone that would like to
20 make a comment at this time about the Remedy proposed?

21 Okay; so yes, we'll go to you and then
22 Interested Persons.

23 MR. WANDLER: Jerry Wandler with the Troy
24 and Libby Snowmobile Club.

25 I guess here on the I -- during the Forest

1 Plan, there's an area called Treasure Mountain that has
2 been, I think in the '87 Plan, was left out of the --
3 I'll say the Cabinet area because they thought they would
4 develop it as a ski area. So now in the -- I'll say the
5 '13 or '14 Plan, or whenever this one finishes, it's
6 still left out. Yet the areas that we were using as
7 snowmobilers that may have been in a proposed wilderness
8 or whatever, those boundaries never changed even though
9 there was use there. So it's kind of strange that they
10 left a piece out because maybe some day somebody might
11 develop it. And of course they had the Cabinet additions
12 to the wilderness to, I'll say, buffer -- buffer the
13 wilderness. It's not included, but it's protected. So
14 it seemed like there's, I won't say a dual standard
15 there, but here's one area that's not being used but it's
16 left open. Yet an area that we're using is now going to
17 be closed.

18 MR. PENA: So do you think my Remedy would
19 address that issue?

20 MR. WANDLER: I would hope so.

21 MR. PENA: Thank you.

22 MR. MATTHEIS: Scott Mattheis with
23 Montanans for Multiple Use.

24 I would like to offer as a remedy some aerial
25 photos that will prove that some of these lands that are

1 in the WSA or in the Whitefish Divide for recommended
2 wilderness are nonconforming lands which should not be
3 suitable for designation or recommended wilderness. I
4 think that would -- you know, the photos, I think, would
5 help improve the record to get to a better decision on
6 that analysis.

7 MS. BECK: Thank you.

8 Sandy?

9 MS. PODSAID: Sandy Podsaid, Shoshone
10 County, Idaho.

11 To add just a little bit to Scott's, I think
12 the record would be improved if they had some Google area
13 photos and some of the original maps that were used in
14 those overlays. The current maps used for some of the
15 proposals are just blocked by color, and they don't have
16 any roads or anything or trails or the type of access in
17 there.

18 And on the second matter, is part of your
19 remedy -- now, I'm going to lose my point too. I can't
20 come with it at the moment; thank you.

21 MR. PENA: It will come back.

22 MS. BECK: Okay; Senator Fielder.

23 SENATOR FIELDER: Thank you. Senator
24 Fielder.

25 I just wanted to follow up on my prior comment

1 because I might have missed something there. And that
2 was I mentioned those comments with respect to
3 recommended wilderness area, and I intended those
4 comments to apply to any kind of restrictive designation,
5 whether it's recommended wilderness, wilderness study
6 area or roadless area. We really need to be taking a
7 look at what's on the ground.

8 MS. BECK: Okay; I think we're just about
9 ready to wrap up on the Remedy. Only comments that
10 address adequacy of the Remedy.

11 MR. PODSAID: Sandy Podsaid, Idaho.

12 In your Remedy, some of the confusion I think
13 that -- in your directive down is we were just informed
14 about our travel plan in the St. Joe is going to be
15 delayed until they see what happens here. I think
16 there's a little bit of the chicken and the egg sometimes
17 of whether the directive of the Forest Plan access
18 compared to what a travel plan would do. And I know the
19 public is very confused because they both say "plan." I
20 understand that sometimes the agency understands, but the
21 record could be a little more separating on what roles
22 both of those and the different roles and
23 responsibilities could be; thank you.

24 MS. BECK: I hope nobody has a cold.

25 MR. HOUGH: My comments -- Bruce Hough.

1 Our decisions are made on assumptions. And I'd
2 like to toss a couple of assumptions out there that I'd
3 like you to consider for your clarification on some of
4 the issues. A lot of the talk we've heard about economic
5 issues is based on the fact that this Plan is based on
6 largely a single study by a consulting group; the data
7 taken from 1985 to 2003. It's 2014; okay? The 2010
8 Census data is available, current data. That's one of my
9 comments.

10 We need ground truth as far as the economics
11 go. The plan that was implemented, used in plan as a
12 modeling tool, it's a modeling tool. It's not a ground
13 truth tool. It takes general statistics, you feed them
14 in, you get an answer. Okay; it's not the same as a
15 solid, scientific, sociological economic study. I'd like
16 to make that as a critical point.

17 There's been no independent review or unbiased
18 review of the people that did the study, neither their
19 corporation, possible conflicts of interest or even in
20 the accuracy on data.

21 MR. PENA: I'm not clicking. Are you
22 talking about this related to the wilderness
23 designations?

24 MR. HOUGH: Yes, wilderness designations
25 and the economic impact that they might have.

1 MR. PENA: All right.

2 MR. HOUGH: As a minor point but I think a
3 significant one, we've heard this from some of the other
4 people, all the Forest Service roads are -- permanent
5 roads, are considered permanent public infrastructure.
6 So they have associated costs, maintenance. They have
7 future and current utility. And that information was
8 never represented in this modeling plan, specifically. I
9 think that's something that should be looked into.
10 Because, for example, USC -- Section 216 USC, "Due
11 consideration shall be given of the relative value of the
12 various resources." There was no consideration of Forest
13 Service roads as permanent infrastructure procedures.
14 Also, and everybody hit this one point or
15 another. This Plan covers seven core counties, okay,
16 that not only have significant and increasing
17 unemployment poverty issues but as part of the Forest
18 Service public lands stewardship role. It's my belief
19 that the Forest Service should continue to look at,
20 specifically for this Plan, the Multiple Sustained Use
21 Act of 1960 and the NFMA Act of 1976, specifically
22 because they require sustained yield and address the
23 issues that address a lot of our economic problems,
24 specifically the NF --

25 MR. PENA: So that isn't helping me with

1 this particular issue.

2 MR. HOUGH: Directions. This direction
3 comments to solving your issue.

4 MR. PENA: I'm not seeing how that's going
5 to help me deal with how we allocate wilderness and get
6 forward on the recommended wilderness here.

7 MR. HOUGH: What I'm saying is that we're
8 not just talking about wilderness, we're talking about
9 the precursors of wilderness, the study areas, research
10 areas, areas that may eventually become or be proposed
11 for wilderness.

12 MR. PENA: That is what the Plan deals
13 with. The issue we're dealing with today is how do these
14 wilderness areas get designated.

15 MR. HOUGH: Okay. As part of that
16 designation, I think that you should be looking at
17 conditions on the ground including in the wilderness
18 areas that may involve what people have already
19 mentioned, natural catastrophic conditions like fire,
20 insect, disease attack or wind storm. Because those are
21 also economic conditions that will affect that wilderness
22 capability. That's all I have.

23 MR. PENA: Thank you.

24 MS. BECK: Are we ready to wrap this one
25 up?

1 All right; let's go ahead and take a break
2 until 3:15. We'll come back and deal with Management
3 Indicator Species and have some wrap-up comments. Thank
4 you, everyone.

5 (Proceedings in recess from 2:59 p.m. to
6 3:18 p.m.)

7 MS. BECK: All right; we have our fourth of
8 four issues to talk about now, and that is Management
9 Indicators Species, referred to as MIS. So I guess we'll
10 have Jim lead off with kind of running us through the
11 issue paper here.

12 MR. PENA: All right; home stretch. The
13 Objector that we picked up for this issue was Alliance
14 for Wild Rockies. Michael Garrity was the person that
15 signed the objection.

16 In the Objection Issue Summary, Objector raises
17 various issues connected to the selection of MIS and
18 whether the selections are appropriately representative
19 of such things as old growth ecosystems, threatened or
20 endangered species and sensitive species. Central to
21 these issues is the question of whether the planning
22 record contains adequate analysis to support monitoring
23 habitat as a proxy for MIS. And then we listed some
24 excerpts from the objections to reinforce the summary.

25 And then on the Review Findings, what's

1 required. At issue is whether the Revised Land
2 Management Plan adequately comply -- is whether the
3 Revised land management adequately complies with the
4 viability requirements at 36 CFR 219.19 under the '82
5 planning rule, and specifically the requirements
6 associated with MIS.

7 The purpose of MIS is to aid in estimating the
8 effects of each Forest Plan alternative on fish and
9 wildlife populations. They are selected because their
10 population changes are believed to be indicative of the
11 effects of management activities. The planning
12 regulations afford considerable discretion in selecting
13 MIS. There's no requirement to select MIS indicators for
14 every activity, vegetation type or management issue.

15 So with that context, what the planning record
16 shows is that the Plan identified three MIS species or
17 group of species; Rocky Mountain elk, landbird assemblage
18 which consisted of five bird species, and aquatic
19 macroinvertebrates. The Plan record provides rationale
20 for selection of the three MIS and why in the other MIS
21 currently in the Forest Plan were not retained as MIS in
22 the revised plan. The response to comments in the final
23 Environmental Impact Statement specifically addresses why
24 Management Indicator Species, specifically representing
25 old growth and sensitive species, were not selected.

1 Conclusions that we reached were given the
2 discretion in selecting Management Indicator Species that
3 is afforded by the regulations, the record indicates
4 adequate analysis and rationale for species selected and
5 not selected as MIS.

6 Forests are permitted to use habitat as a
7 monitoring proxy if the linkage between population
8 viability and the amount of quality of habitat condition
9 has been established. This linkage for the landbird
10 assemblage MIS is not clearly identified, and the revised
11 plan does not adequately explain how monitoring habitat
12 will relate to species viability.

13 The linkage between the aquatic
14 macroinvertebrate assemblage or an MIS or Management
15 Indicator Species and water quality is fully supported in
16 the planning record and their use to gauge the effects of
17 management activities on water quality is consistent with
18 the planning regulations. The relationship between the
19 aquatic macroinvertebrate assemblage populations and fish
20 populations and distribution is not thought to be
21 currently documented in scientific literature.

22 The Kootenai National Forest is directed by the
23 2012 Planning Regulations to modify its plan monitoring
24 program to be consistent with requirements of those
25 regulations by 2016. In doing so, the use of MIS will be

1 discontinued and replaced with focal species as an
2 indicator of ecological conditions.

3 While, that may be a fact, I don't think it
4 bears on the question today of whether or not we
5 adequately covered Management Indicator Species under the
6 '82 Planning Rule. And so that's just a point of
7 reference out there.

8 So that's what we captured for this issue and
9 the conclusions we reached. I'd like to hear from the
10 Objectors if we adequately captured the issue, the
11 objections up to this point, and then we'll go into
12 proposed remedy.

13 MR. JUEL: Okay; this is Jeff Juel on call
14 on behalf of the Alliance for the Wild Rockies.

15 And yesterday in Coeur d'Alene, I had the
16 opportunity to address this very same issue only in the
17 context of the Idaho Panhandle National Forest Revision.
18 And due to the nature of the KIPZ Revision process, the
19 similarities and the issues as discussed under both of
20 our objections, both in the Idaho Panhandle and the
21 Kootenai are so similar that I didn't -- I don't see it
22 necessary for me to repeat the remarks I made yesterday.
23 I would just ask that those remarks I made yesterday be
24 also made applicable to today's discussion here about the
25 Kootenai National Forest Revision. Just you know, in the

1 interest of everybody's time and the simplicity of it, I
2 think that would be appropriate. I don't think that I
3 could add anything more to yesterday that would be
4 necessary at this point in time. So really, the only
5 difference in my testimony today would be that today I'm
6 only speaking on behalf of the Alliance for the Wild
7 Rockies because they're the only group on the objection
8 that I'm representing.

9 So if that suits the reviewing officer, I would
10 say that that would be all that would need to be said.

11 MR. PENA: Okay; Jeff. I'm looking to my
12 expert, and she says that we can take what you provided
13 yesterday and add it to the record for meeting and
14 applying to the Kootenai. So we will do that.

15 MR. JUEL: I appreciate it. And I would
16 just say in addition that anybody that would want to add
17 to what I say about that -- what I said about that
18 yesterday, that should be available on the record as soon
19 as this record is ready.

20 MR. PENA: Yes.

21 MR. JUEL: Okay. Well, thank you. Is
22 there anything else that you wanted the Objectors to
23 partake in terms of this discussion then?

24 MR. PENA: Well, the folks -- not everybody
25 here were there. And so before you sign off, I'd like to

1 open it up to the Objectors here.

2 Is there anybody else that has a view that
3 would help me make sure that I understand the issue?

4 MR. FIELDER: My name is Paul Fielder. And
5 I've been on the phone all day, and I would like to
6 comment on this issue if I can.

7 MR. PENA: Sure; go ahead.

8 MR. FIELDER: Okay. I'm a retired wildlife
9 biologist thirty-one years, and I'm the natural resource
10 aid to Senator Fielder who's there present. And in the
11 letter I got from you on April 10th, you said that this
12 topic was going to cover Management Indicator Species and
13 species viability. So since I'm on the East Coast for
14 two weeks, I was using that species viability to frame my
15 comments around.

16 And species viability that I'm referring to
17 included in Management Indicator Species has to do with
18 grizzly bear. Since the Kootenai National Forest has
19 been determined that 55 percent of the whole forest is
20 going to be managed as grizzly bear core habitat, I think
21 that's a fairly important indicator species as being
22 managed core habitat for the species of the grizzly bear.

23 And my comments go back to the Record of
24 Decision on concerning the access amendment, motorist
25 access amendment. That motorized access amendment should

1 be included in this Kootenai Forest Plan when this Forest
2 Plan is eventually finalized. So since this is going to
3 be included in there as part of this Forest Management
4 Plan, I want to point out corrupted science and an
5 absence and omission of key biological information that
6 that access amendment is based on.

7 MR. PENA: I'm not talking about the access
8 amendment right now though. How does that relate to the
9 Management Indicator Species issue that we're dealing
10 with?

11 MR. FIELDER: Species viability is the
12 letter you sent me on April 10th. So I'm talking about
13 species viability. And I'm saying that the science which
14 is being used for the species viability of grizzly bears
15 in the Kootenai National Forest is corrupt, it's not the
16 best or the latest or the most updated science
17 information available, and the Waller thesis which was
18 done just 90 miles away in 2005 was completely ignored.

19 And when Lydia Allen conducted her 2011
20 analysis, a fully contextual report which drives the
21 whole axis amendment, she ignored the work that Waller
22 did in 2005, despite the District Court order on December
23 11th which said that the analysis must consider the
24 findings of other studies measuring habitat parameters
25 and other ecosystems. So your Forest Management Plan

1 which is based -- which incorporates the motorized access
2 amendment is based on flawed science.

3 In my letter comment which you have and
4 acknowledged, I also point out that the US False
5 Statements Statute, which holds the person who makes the
6 authorization, signs the letter, responsible for
7 any -- for the use of false, fictitious or fraudulent
8 statements or information.

9 So I wanted to point this out to you that
10 grizzly bears are driving a lot of the forest management
11 in the Kootenai National Forest. They're a major
12 indicator species there, and all that science is based
13 upon corrupted science --

14 MR. PENA: I don't believe that the grizzly
15 bear is an indicator species.

16 MR. FIELDER: Don't believe that the
17 endangered grizzly bear is an indicator species and even
18 though it encloses up 55 percent of the forest. I made
19 my comment. I'm on the record, and I presented the
20 information to you. You have it in writing presented for
21 this record, and I ask you to go back and take another
22 look at that motorized access amendment, because that's
23 what the whole crux of this Forest Plan is based on,
24 which most people probably objected to. And thank you
25 for listening to me.

1 MR. PENA: All right; thank you.

2 So I guess what you're saying is you think that
3 grizzly bears should be added as a management indicator
4 species.

5 MR. FIELDER: The grizzly bear is being
6 used to drive forest management on the Kootenai National
7 Forest. And if the species is being used to drive forest
8 management, then obviously it's an indicator species.
9 It's the indicator species which is being used to
10 determine road densities.

11 MR. PENA: Okay; thank you.

12 MS. BECK: Objector comments? Anything
13 you'd like to offer for clarification? Go ahead. Name?

14 MR. BUTTS: Todd Butts; thank you.

15 I'd just like to say that for the most part, I
16 think these conclusions are good and accurate. I think a
17 lot of people don't understand that just because you have
18 a bull trout or a lynx that they're not necessarily a
19 good Management Indicator Species like, you know, your
20 bird assemblages and your macroinvertebrates are. So
21 yeah, I just want to say that and listen to the other
22 comments before I speak anymore.

23 MS. BECK: Okay.

24 Senator Fielder.

25 SENATOR FIELDER: Senator Fielder.

1 Thank you, Mr. Pena, for indulging my husband,
2 and my apologies. He has not been able to hear the
3 framework of the discussion at all. I've been on the
4 phone with him a couple of times, and he doesn't know the
5 format of the meeting because he can't hear anything
6 except when you talk, and that's very distorted.

7 The point I would like to raise here in your
8 Conclusions is the second bullet item in the final
9 sentence says "the Plan does not adequately explain how
10 monitoring habitat will relate to species viability."
11 And I agree with that. We have quite a bit of
12 information related to the grizzly bear species on how we
13 can do active management and actually increase their
14 habitat and their viability. But we don't see that
15 connection being made in the forest planning documents.
16 It seems like everything's biased towards stocking
17 management and closing roads rather than actually
18 enhancing the habitat. So thank you for including that
19 in the Conclusion. And I would like to just reiterate
20 that with grizzly bears, that's a key point that's been
21 overlooked. And I'll just leave it at that for now;
22 thank you.

23 MS. BECK: Thank you. Any other Objectors
24 wish to make a comment on this adequacy of the statement
25 of your objections?

1 Okay; Interested Persons?

2 Do you want to ask for anyone else on the
3 phone?

4 MR. PENA: Is there anyone else on the
5 phone that would like to comment?

6 MR. PECK: Yeah, Brian Peck with NRDC.

7 MR. PENA: Thank you.

8 MR. PECK: I don't know what Jeff Juel's
9 comments were for the Alliance for the Wild Rockies, and
10 I really hate to have to agree with Paul, but I think
11 there's a huge oversight by not having grizzlies in here
12 as an indicator species. There is -- there's fifty
13 years' worth of data on grizzly bears and the impact of
14 virtually everything that's proposed to be done in the
15 Kootenai Forest Plan, whether that's logging, roading,
16 motorized use level, nonmotorized recreation, developed
17 facilities. Virtually everything that a national forest
18 does has well-documented impacts on grizzly bears. And
19 so I hope you will reconsider and put them back in. I
20 think it's a huge obvious hole.

21 MR. PENA: Thank you.

22 MS. BECK: Okay; any other comments from
23 the phone? Okay; any other comments from anyone in the
24 room?

25 MR. HINKLE: Thank you. My name's Greg

1 Hinkle, retired state senator. I'm looking on page three
2 of the subject matter we're discussing right here, and at
3 the top paragraph it states "These documents provide
4 rationale for the selection of three MIS and why other
5 MIS currently in the 1987 Kootenai Forest Plan, grizzly
6 bear, gray wolf, white-tailed deer, bald eagle, peregrine
7 falcon, mountain goat, and pileated woodpecker were not
8 retained in the Forest Plan." So as I read that, I
9 understand that it was there as an indicator species and
10 then was removed; is that correct?

11 MR. PENA: It's my understanding.

12 MR. HINKLE: Is there any reason why? Why
13 was it removed?

14 MR. PENA: Well, what I read here is the
15 rationale was provided in the Plan. I don't know off the
16 top of my head what the rationale was for not going -- or
17 continuing all those species as Management Indicator
18 Species. But what we found when we reviewed the
19 documents that the rationale was there for not continuing
20 to use them as MIS.

21 MR. HINKLE: I would agree with Mr. Fielder
22 and the previous caller that the grizzly bear needs to be
23 reinstated into this Plan and in all this and studied
24 further.

25 MR. PENA: Okay.

1 MS. BECK: I think maybe we're ready to
2 talk about Remedy.

3 MR. PENA: Any of the Interested Parties?
4 Any Interested Parties on the phone?

5 Okay; Remedy. Add information to the planning
6 records supporting the linkages between MIS species
7 population and habitat or select other MIS species that
8 have that a known and supportable linkage to the habitat
9 quality where management actions are anticipated.

10 Remove from the planning record any suggestion
11 that the aquatic macroinvertebrate assemblage population
12 monitoring will be used to draw conclusions about fish
13 populations and distribution unless solid scientific
14 support for these relationships is available and
15 referenced and summarized in the planning record.

16 State clearly in the planning record the
17 management activities for which MIS will be selected and
18 then provide a clear rationale to explain why these
19 species are responsive to forest activities. This
20 rationale would include scientific basis for selecting
21 individual MIS, and it would document clearly the
22 monitoring objectives for each MIS. The Plan may specify
23 that MIS habitat monitoring is appropriate where the
24 scientific basis for concluding that habitat condition or
25 features provide reliable information about MIS

1 populations is available.

2 Although not required by 36 CFR 219.19, the
3 record would be improved with the description of the
4 quantity and quality of habitat required by MIS including
5 an explanation of how these would be measured during
6 monitoring.

7 And then to the question about, you know, how
8 did we get to the species that were selected or the
9 rationale for not carrying other ones through, the
10 direction in the first bullet and then the third bullet
11 would get at explaining that. So in addition to that,
12 based on what I'm hearing, is that I'm going to ask that
13 the Forest take another look at grizzly bear and make
14 sure we've adequately evaluated whether or not it will
15 help us -- it is an appropriate species to be considered
16 as a Management Indicator Species or what other mechanism
17 is being used to address the habitat or the management
18 activities that grizzly bear might be used as an
19 indicator species for.

20 So that's my proposed Remedy. I'd like to see
21 if people think that this is responsive or if there's
22 suggestions or things that I could add that would
23 strengthen the remedy.

24 MS. BECK: Yeah, okay.

25 MR. MCKENZIE: Mr. Pena, since most of us

1 in this room were not at the meeting yesterday, I know
2 Mr. Juel had a long discussion on this topic. Were there
3 any additional remedies that came up yesterday in Idaho
4 that might be applied to the Kootenai through Mr. Juel's
5 request?

6 MS. BECK: He's going to look in his notes
7 real quick.

8 MR. PENA: Essentially, the remedy is as I
9 stated last, the grizzly bear. There's a couple notes
10 that I made that I would want to go back and ask some
11 more questions about how we might strengthen the approach
12 on diversity, because Jeff made the point that the point
13 of their objection was, you know, the intent is to
14 maintain diversity. That's the whole intent of how
15 management indicators -- or the purpose for management
16 indicators is to maintain species diversity on the
17 national forest. And so I just made a point to see if we
18 need to do something to strengthen how we're addressing
19 the diversity question. But other than that, the four
20 remedies that we laid out were the ones that were agreed
21 upon -- or not agreed upon, but I didn't get any feedback
22 that indicates that I need to add more, take away from
23 what was -- I was thinking.

24 REPRESENTATIVE CUFFE: Thank you.
25 Representative Mike Cuffe.

1 And I think I figured out the insectivore
2 landbird assemblage. I'm not exactly sure what the
3 aquatic macroinvertebrates and how they fit into the
4 whole picture. So is there anybody that can kind of fill
5 me in a little bit?

6 MR. BUTTS: Todd Butts. For those of you
7 who don't know, aquatic macroinvertebrates are basically
8 insects that live under rocks in streams. So the
9 abundance and diversity of those insects would be an
10 indicator of water quality, stream health, that sort of
11 thing. And I think that's probably the reason that
12 particular assemblage was chosen as a Management
13 Indicator Species.

14 MR. PENA: And the lack -- or questioning
15 the connection of that indicator for water quality which
16 we felt had strong connection, we wanted to go back and
17 think about, from a fish standpoint, does it follow for
18 fish? You know, theoretically, fish need clean water.
19 Particularly the species that occur in this area, they
20 require clean water by and large. But we're questioning,
21 based on our analysis, whether there's adequate
22 connection to be able to say it will come in for fish
23 too. If we've got it there, fine, then it will.
24 Otherwise we'll need to find a different way to go.

25 MR. BUTTS: I think you were correct in

1 that, too. The scientific literature doesn't always
2 support that, even though, you know, you would think you
3 could draw a conclusion. You can't always do that.

4 SENATOR FIELDER: Senator Fielder.

5 Appreciate you taking a look at the grizzly
6 bear issue. It's an important issue. And along with
7 that, the point of looking at and using best science.
8 The 1987 radiotelemetry is not best science. There's
9 nobody that can contest that that was better science than
10 the GPS technology that we have available now. There was
11 more data collected in the Waller 2005 GPS study on
12 grizzly bears in this region. Thousands of data points
13 taken 24 hours a day, seven days a week. There was more
14 data collected in that Ph.D. thesis that's a published
15 scientific document than in all the other research that's
16 been done, and it's been completely ignored. So we need
17 to have best science brought into the equation here in
18 order to understand what's really going on. Thank you.

19 MR. PENA: Thank you.

20 MS. BECK: Okay; yes.

21 MR. HINKLE: Greg Hinkle, retired senator
22 again.

23 I would agree with you, Mr. Pena, that -- I
24 thank you for bringing the grizzly bear back into the
25 situation.

1 MR. PENA: I didn't say we were going to do
2 it. I said they need to look at it.

3 MR. HINKLE: Well, that's a baby step.
4 Anyway, when you're looking at that, please bring into
5 consideration the DNA studies that were just completed by
6 the USGS on the grizzly bears in this area. And take a
7 long, hard look at that so we can get a real number on
8 the bears that are here.

9 MS. BECK: Other comments from Objectors?

10 MR. FIELDER: Can I say one last thing?
11 This is Paul Fielder again.

12 I think Mr. Pena's consideration of
13 reconsidering grizzly bears as an indicator species is a
14 very good idea. I've had a lot of work with species
15 diversity and habitat improvement increasing character
16 capacity. And since a lot of our forest management is
17 affected by grizzly bear management, I think it would be
18 prudent to include that as an indicator species so we can
19 actually manage the habitat to improve it for grizzly
20 bears and increase grizzly bear populations.

21 Of course, the flip side of managing grizzly
22 bears is we'll have to do a lot more timber harvest.
23 Thank you very much for considering that.

24 MS. BECK: Okay; Interested Persons?
25 Anyone have a comment they'd like to make?

1 MR. PECK: This is Brian Peck on the
2 phone --

3 MR. PENA: Go ahead.

4 MR. PECK: -- with NRDC.

5 While you're reconsidering stuff about grizzly
6 bears, you absolutely -- a vital person to talk to right
7 there in Libby is Wayne Kasworm. He's the Fish and
8 Wildlife Service biologist who's been working on the
9 grizzlies in the Kootenai area since 1983. He's a
10 walking encyclopedia of grizzlies and grizzly habitat.

11 MR. PENA: Thank you.

12 MR. SOULTS: My name is Scott Soultz,
13 wildlife biologist division manager with the Kootenai
14 Tribe of Idaho.

15 Thank you for this opportunity to speak.
16 Wanted to emphasize that we do agree with the
17 conclusions. And part of the aspects that you have to
18 always keep in mind is the current Forest Service
19 analysis of modeling is looking at ecosystem based and
20 it's a real improvement on past forest plans, looking at
21 forest fragmentation, past size, connectivity,
22 biodiversity, structure of the habitat, ecosystem
23 functions and processes, disturbance regimes. And all
24 these, again, track those management actions and also
25 start, again, use as a proxy for the species viability

1 and diversity. So we do support the Forest Service as
2 they go forward in this Forest Plan. It is a very, very
3 big improvement on habitat and species management from
4 past activities.

5 One aspect that was brought up on the
6 Conclusions, and we'd like to propose to add as a remedy
7 and as you said, Mr. Pena, is a point of reference, but I
8 think it would be worth adding to is to possibly initiate
9 meetings and discussions prior to the discontinuation of
10 the MIS and the replacement of the focal species, at the
11 minimum, to at least include a mention of this transition
12 process.

13 MR. PENA: Okay. I think what you're
14 saying is reference in the Plan that at -- in 2016 this
15 transition will need to occur and that that will require
16 a new -- I'm not sure what you're asking.

17 MR. SOULTS: I'm not sure what I'm asking
18 either, but at least to mention that there is a
19 transition process, acknowledge that that transition
20 process is coming. How the Forest Service deals with it
21 is, I guess, the Forest Service.

22 MR. PENA: And so I know as a part of the
23 2012 Forest Planning Regulations and Directives those
24 kinds of things, the process for that is going to be laid
25 out. And I would be surprised if it's fully cooked yet.

1 And so those are the kinds of things that we're working
2 on so that we'll be prepared when that trigger comes
3 along in 2016.

4 MR. BARQUIN: Billy Barquin, Kootenai
5 Tribe.

6 Just to follow up on what Scott was saying,
7 that's exactly it. If we're going to move away from
8 using MIS and moving towards species and conservation
9 concerns, focal species as ecological -- I forget what
10 the other part of it is but Scott will mention it
11 later -- we need to at least mention in this Plan, this
12 current Plan, Final Plan, how we think we're going to at
13 least start that process or start incorporating the new
14 directives that will be coming from the 2012 rule.

15 MR. PENA: I'm not sure that I could make
16 that kind of commitment because we don't know. And so
17 the Plan here is to cover what we're doing. And so until
18 it changes, what we're doing is MIS. And so unless
19 it -- until we actually change it, I don't think I'm in a
20 position to be able to speculate on what that process is
21 going to be and how it will play out. Thank you. I
22 think I understand in general when it comes -- it's going
23 to be an issue that we have to work through with a bunch
24 of people.

25 MS. BECK: Okay; microphone's behind you.

1 MR. BUTTS: Todd Butts.

2 One thing I'm not sure that their Remedy
3 currently accounts for is that the potential impacts of
4 large scale catastrophic wildfire on the current
5 Management Indicator Species. So that might need to be
6 something that's considered as part of the analysis
7 is -- we've been told, especially like in the Whitefish
8 Divide area, that that area is basically overdue. And I
9 know that aquatic macroinvertebrates and fish don't
10 really do too well after, you know, large scale extreme
11 wildfire events.

12 MR. PENA: If I get it right, MIS is
13 supposed to be an indicator for us on what the impacts of
14 those activities or those events are. So for that
15 particular one, it probably is going to be a good
16 indicator.

17 MR. BUTTS: Thank you for your time today.

18 MR. PENA: Yeah.

19 MR. HINKLE: Greg Hinkle, again, retired
20 state senator.

21 Mr. Pena, I would request that in this process
22 considering the grizzly bear that you do a peer review of
23 the Kasworm and Wakkinen report, their studies.

24 MR. PENA: Any other feedback on the
25 remedies? Any Interested Parties?

1 Okay; I think I've got what I need then.

2 Anybody on the phone have any other comments to
3 make on the remedies for the MIS? Okay.

4 So, I appreciate everybody sticking with us to
5 the end. The dialogue was very helpful for me to
6 understand the situation here on the Kootenai and the
7 communities around the Kootenai. I think I really
8 benefit from the dialogue in better understanding the
9 issues that we focused on. It gives me a little bit
10 broader understanding, and I really appreciate that.

11 One of the things that I wanted to share before
12 we left is where we go from here is I'm going to meet
13 with my staff and try to make sense of what I heard today
14 and will be finalizing the letter of direction decision
15 letter on the appeal objections for the Kootenai and then
16 also the Idaho Panhandle to Faye. The timeline is I've
17 asked that we get it done within a month, and we'll see
18 if we're able to accomplish that.

19 I think that what I learned is there's a lot of
20 interest around the level of analysis and the level of
21 consideration of different impacts on local communities
22 in the Forest Plan. And what I heard here and what I
23 heard in Coeur d'Alene was the desire to see a lot of
24 really specific analysis on some of the resource action
25 or resource management direction, social impacts, things

1 like that, in the Forest Plan.

2 And I think when we look at the aggregate for
3 200 objections going back and the Forest responding to
4 whatever portion of that requires additional work, the
5 Forest is going to have to look at what that -- what
6 those changes represent and what kind of analysis or
7 evaluations need to happen in order to make our NEPA
8 document reflect that situation. And so I don't know how
9 to put this any other way. The analysis is for on the
10 Plan. And so the Plan is an aggregate of a bunch of
11 different directions. There's six decisions that need to
12 be made that Faye told me about.

13 I'm a person that's been a line officer for
14 over twenty years and I've successfully avoided having to
15 do any forest planning until today and yesterday. And
16 so -- but I think it's important that we realize that the
17 level of analysis is at the Forest Plan level. So as we
18 change those components that make up the management
19 direction, the allocations like for wilderness, wild and
20 scenic rivers, the effects analysis is at the Plan level.
21 And so when folks are talking about a specific economic
22 analysis, you're probably not going to see an economic
23 analysis that's specific to wilderness, wild and scenic
24 rivers or the effects of individual rivers. You're going
25 to be seeing an effects analysis and an economic analysis

1 at the Plan level of what the impacts of these different
2 aggregate decisions or direction would have on the area
3 affected by the Plan.

4 And so what I'm taking away from this is the
5 direction would -- for the changes or the remedies that
6 need to be addressed by the Forest when we ultimately
7 sign that decision, is likely going to trigger the need
8 to go back and do additional analysis because we're going
9 to have to change some stuff, potentially. And so
10 particularly when we talk about having discussions with
11 local governments, having the opportunity to sit down
12 with the county supervisors, other government entities,
13 the state, the tribes, and see what -- how we can do the
14 analysis on the Plan that would represent the aggregate
15 impact is what I see some real value in sitting down and
16 understanding how to go about doing that and getting the
17 benefit of those discussions in forming the Forests on
18 what those impacts are.

19 I just want it to be clear, because yesterday
20 and today I didn't want to be setting up the expectation
21 that a lot of new in-depth analysis would be a direct
22 result of what we've been talking about the last couple
23 days. I have a hard time envisioning there won't be more
24 analysis. But the way people were framing wanting to
25 see, in particular, economic analysis and the effects on

1 local communities, I don't want you to walk away from
2 here saying Yeah, we told Pena that that's what needs to
3 happen and he said -- I saw him nod his head and we'll
4 see it. And so I want to try and manage some
5 expectations is those discussions that likely are going
6 to have to happen, that will have to happen, I'm thinking
7 the result of those will be how we end up with, in
8 particular, better information to evaluate the economic
9 impact and the social impact of the Decisions that are
10 made in the Plan.

11 Is that a fair way to put that, Faye?

12 So I don't think I have anything else. I'm
13 leaving here today thinking that I've been able to hear
14 from you on how I need -- how I captured these issues,
15 the Remedy adjustments that I should be considering. And
16 then I'm hoping that that will allow me to work with the
17 staff to get out an objections decision hopefully as
18 quickly as possible, hopefully within a month.

19 So I really want to express my appreciation for
20 the time that you spent here today. I know everybody has
21 better things to do than this sometimes, hopefully. I
22 know it's a difficult process. But I think it really
23 reinforced to me the level of interest, commitment and
24 how much people value what happens on the national forest
25 by your presence here today and the presence of folks on

1 the phone. So thank you. Yes.

2 MR. WHITE: Kerry White, Citizens for
3 Balanced Use, House District 70.

4 Just a couple clarifying questions, Mr. Pena.
5 First of all, there was numerous amounts of objections,
6 but you selected four. Could you explain, you know, what
7 has occurred to the other however many there are? And
8 secondly, I had put in an objection to the change of
9 process to include -- to do away with the appeal process
10 under the '82 Rule and move to a 2012 Planning Rule in
11 the middle of the process. And so in that respect, will
12 that Objection be addressed, or it's not appropriate, or
13 how will that move forward in litigation or whatever that
14 is? Thank you.

15 MR. PENA: All the objections that were
16 submitted will be addressed in my objection decision
17 letter to Faye. And so they'll either result in I don't
18 agree with the objection and here's why. Or the
19 objection has merit and here's something I need to have
20 the Forest and Region do to respond to the objection.
21 And then the remedies on the particular issues, you have
22 a flavor for what that's going to look like. And so that
23 will come out in the decision letter. That will be, in
24 essence, the conclusion of the objections process. And
25 that will be the final agency determination on the

1 objections.

2 MR. WHITE: Does that come to all of us?

3 MR. PENA: Yes. Everybody that was an

4 Objector will get a response. Everybody that was an

5 Interested Party will get a response. Is that right?

6 MS. BEIGHLEY: Yeah. Your response will be

7 to the Objectors. And the Interested Persons will get a

8 copy of that.

9 MR. PENA: So you'll get closure in that
10 respect.

11 MR. WHITE: A copy of the letter to her?

12 MR. PENA: Yes.

13 MR. WHITE: Which will include everybody's.

14 MR. PENA: Right. Did that answer your
15 questions?

16 MR. WHITE: The first one.

17 MR. PENA: Okay; the second one.

18 MR. WHITE: The second was one of my
19 objections was the change in process from the '82 Rule on
20 the appeal process to the 2012. In the middle of this
21 process it seems like there's been a process change
22 without proper notification to the public.

23 MR. PENA: So that would be responded to in
24 my decision letter.

25 MR. TROCHMANN: John Trochmann.

1 Thank you, Jim. I'll see if I can phrase it
2 properly so I don't get kicked off the mic this time.

3 We seem to be having a problem with real estate
4 agents wanting to properly inform folks about what's
5 going to happen in the future for a sale on property at
6 or near a river, at or near a wilderness area. And we
7 know of experiences that have happened elsewhere where
8 people have purchased property hoping to build and
9 couldn't because of wild and scenic rivers being placed
10 over the top. So what can we tell the real estate
11 agents?

12 MR. PENA: Well, right now, we don't have a
13 decision, so I can't tell you what to tell the real
14 estate agents. I think what I heard today is the
15 decisions that we would be making is relative to
16 determining the eligibility. And that eligibility may
17 have some restrictions in order to maintain the
18 outstandingly remarkable values on that river. Beyond
19 that, I don't know what more I can tell you.

20 MR. TROCHMANN: But we do know that it's
21 going to hurt the value of property and property sales.

22 MR. PENA: I don't know that at all.

23 MR. TROCHMANN: It has done that already in
24 Washington state.

25 MR. PENA: Okay.

1 MR. FERRELL: Doug Ferrell.

2 Jim, if I understood you correctly, you just
3 said that when you write your letter hopefully in around
4 a month that will respond to these objections, that will
5 be the end of the objections process?

6 MR. PENA: That is correct.

7 MR. FERRELL: And I also understand that
8 part of your recommendation is likely to be that there
9 will be a process going forward with local governments to
10 have some continuing dialogue with the forests that will
11 obviously be going on for a period beyond 30 days or so.

12 MR. PENA: Uh-huh.

13 MR. FERRELL: So you're considering that
14 not to be part of the objections process?

15 MR. PENA: The objections process is y'all
16 submitted your objections when we posted the final FEIS
17 and the proposed ROD. And so we didn't make a decision.
18 And so what the process is intended to do is for us to be
19 able to identify things in our final FEIS and our
20 proposed decision that the public would have concerns
21 with and have an opportunity to try and get those
22 resolved. So that's what we did or will have done
23 through this process. And so once we get it done, then
24 the next step would be going through the remedies, the
25 Forest responding to those remedies, doing the work that

1 is required of that, and then it's up to Faye to decide
2 when she's prepared to sign a new Record of Decision
3 based on what we heard through the objections and the
4 work that's done on the Forest to respond to those
5 remedies.

6 MR. FERRELL: Okay; that's helpful
7 clarification. Thank you very much. Good luck on that.

8 MR. PENA: Yeah. And then at that point
9 there is no objections process. It goes into -- that is
10 our decision, it's a final decision. And the only remedy
11 if people are not satisfied with that decision would be
12 to file a lawsuit in federal court.

13 MR. FERRELL: Yes. Thank you very much.

14 MR. PODSAID: Sandy Podsaid, Idaho.

15 If the economic factors are included in the
16 final EIS as you're directed, does that then mean that
17 each of the differences between the alternatives would
18 reflect those and --

19 MR. PENA: I don't know.

20 MR. PODSAID: Okay; they may.

21 MR. PENA: They may.

22 MR. PODSAID: Thank you.

23 SENATOR FILDER: Senator Fielder.

24 I wanted to check and make sure if you're
25 positive that everybody who objected received the notice

1 of the meeting. I received a communication, a Jim

2 Johnson, who said he didn't get notified of the meeting.

3 MR. PENA: As far as I know, everybody has.

4 We sent electronic versions. And I think we were able to

5 contact everybody that we had a record of how to contact

6 them by.

7 SENATOR FILDER: Okay. Just for the

8 record, it's Jim Johnson. I believe he lives here in

9 Lincoln County in the Kootenai Forest.

10 MR. PENA: Okay.

11 So again, I'd like to say thank you.

12 And I'd like to see if Faye wants to say

13 anything before we go.

14 MS. KRUEGER: Well, I want to thank you for

15 taking the day as well and giving us additional insight

16 and information. And I know our team that did the work

17 on the KIPZ did a lot of work, and they're anxious to

18 share a lot that's happened. And sometimes I think we

19 just don't know all the good work that's gone into that.

20 And I hear that there's more coming. But I just wanted

21 you to know, really appreciate the team's work. Want to

22 say thank you, and I'm having an Arnold moment and I want

23 to say we'll be back. We'll leave on a high note here.

24 So we'll be coming back to touch bases again.

25 MR. PENA: So I think that's it.

1 MR. PECK: Excuse me, Mr. Pena.

2 MR. PENA: Yes.

3 MR. PECK: Brian Peck with NRDC.

4 As I talk to other conservation groups, I find
5 that because the agenda today and yesterday was so
6 narrow, that most of the objections, probably at least 95
7 percent of the objections, were not part of the agenda
8 yesterday or today. And I'm wondering if there's any
9 interest at the regional forester office or somewhere
10 else in meeting with folks, in my case from the
11 conservation community, so there's more of a face-to-face
12 discussion of that vast bulk of the objections. Because
13 I understand that you will issue a written response, but
14 that kind of comes as a, you know, the horse is out of
15 the barn. And it's kind of a take it or leave it that
16 the point. And I'm wondering if there's some way of
17 having an additional meeting so that we don't get to that
18 situation.

19 MR. PENA: Well, I think the way that we've
20 approached these first two is I sat down with staff and
21 we evaluated our opportunities for our understanding of
22 the objections. And we chose to have public meetings
23 with the Objectors on those where we felt that there was
24 going to be additional value in having further discussion
25 because in those other areas we felt the objections were

1 clearly stated. We understood where they were coming
2 from and that we believe that we could respond to them
3 without further discussion. And so I don't think that
4 under the Objections process I'm going to entertain
5 further meetings. I think under the NEPA process or just
6 generally separate from my decision process, there's
7 nothing that precludes any group from meeting with the
8 Forest or Faye on concern of things about how the Forest
9 Plan goes forward. But under the objections process, as
10 I stated, this is the meeting that I felt we were going
11 to hold on at this time. And so I guess my shorter
12 answer is, there's probably not another opportunity to
13 have further dialogue on those remaining objections.

14 MR. PECK: Uh-huh. Okay.

15 MR. PENA: Thanks.

16 All right; have a good evening. Thank you.

17 (Proceedings concluded at 4:13 p.m.)

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