



United States
Department of
Agriculture

Forest
Service

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Subject: 1570 (215) A&L - ARO Letter - Glacier Loon Fuels Reduction and Forest Health Project (DN) - Flathead NF - SVC - #13-01-00-0017

To: Appeal Deciding Official

This is my recommendation on disposition of the appeal filed by Keith Hammer, on behalf of the Swan View Coalition, of the Glacier Loon Fuels Reduction and Forest Health Project Decision Notice (DN) signed by Flathead Forest Supervisor Chip Weber.

The Forest Supervisor's decision is to implement Alternative D, with modifications. The chosen alternative includes fuel reduction and forest health treatments on 1,405 acres, 1,159 acres of which are within the wildland urban interface (WUI) and 246 acres outside the WUI. There will be 5.9 miles of temporary road construction, which will be reclaimed following use, and 8.4 miles of additional road decommissioning. A site specific Forest Plan amendment would change 213 acres of land in Management Area 15 and 8 acres of land in MA 15C to MA 5 where the management emphasis is to maintain a pleasing natural appearing landscape in which management activities are not evident.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision are in compliance with applicable laws, regulations, policies, and orders. The appeal record, including the appellant's appeal points and recommended changes, has been thoroughly reviewed. Although I may not have listed each specific issue, I have considered all the issues raised in the appeal and believe they are adequately addressed below.

The appellant alleges violations of the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), the Administrative Procedures Act, (APA), the Endangered Species Act (ESA), the Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clear Air Act, the Migratory Bird Treaty Act, the Travel Management Rule, and the Flathead Forest Plan. The appellant requests the Decision Notice and Finding of No Significant Impact be rescinded and the Forest prepare an Environmental Impact Statement that addresses the issues raised in the appeal. An informal disposition meeting was held, but no resolution of the issues was reached.



ISSUE REVIEW

Issue 1: The Travel Analysis, EA and DN/FONSI Violate the NEPA and Travel Planning Regulations (Contentions 1 through 9).

Response: Appellants allege that since a travel analysis was completed for this area, then NEPA, Forest Service policy, and/or the regulations at 36 CFR 212.5 (b)(1) somehow compel the agency to propose, under NEPA, immediate implementation of any recommendations from that travel analysis. Or, it might also be their implied conclusion that any NEPA travel analysis was intended to inform must do the same (NOA, pp. 4 to 5). This theory, however, is not supportable by law, regulation, or Forest Service policy.

The regulations at 36 CFR 212.5 (b) do not speak to NEPA requirements at all. They simply provide that a National Forest unit must identify the “minimum road system for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.”¹ The regulations go on to identify factors a Forest must consider and incorporate when they make this unit-wide determination. These regulations require, in part, that the unit-wide determination must incorporate a “science-based roads analysis.” It is Forest Service policy (FSM 7710.3) that the travel analysis process defined at FSH 7709.55, ch. 20 is to serve as the “science-based roads analysis” required by 36 CFR 212.5 (b)(1).

Forest Service policy, however, prescribes the travel analysis process at FSH 7709.55 for other purposes as well. Travel management decisions are to be “informed by travel analysis, as applicable” (FSM 7710.3). Travel management decisions are defined at FSM 7715. They “include adding a route to or removing a route from the forest transportation system, constructing an NFS road or NFS trail, acquiring an NFS route through a land purchase or exchange, decommissioning a route, approving an area for motor vehicle use, or changing allowed motor vehicle classes or time of year for motor vehicle use.” In these instances “the responsible official has the discretion to determine whether travel analysis at a scale smaller than a ranger district or an administrative unit is needed and the amount of detail that is appropriate and practicable for travel analysis” (FSM, 7712.1 (3)).

Given the above, it is clear that it is the nature of the NEPA decision (i.e., whether or not it includes a “travel management decision” as defined at FSM 7715) that determines whether a travel analysis is required, per Forest Service policy, not the other way around. Appellants contention that the travel analysis process prescribes what actions must be considered in a subsequent NEPA decision are unfounded.

As stated above, Forest Service policy requires travel management decisions to be informed by a travel analysis (FSM, 7710). The Glacier Loon Fuels Reduction and Forest Health Project contemplated and eventually proposed road decommissioning. Road decommissioning meets the

¹ In their NOA, appellants treat the concept of a “minimum road system” as a mandated objective on the land; as a maximum allowable set of roads to maintain on the Forest Service system. The name itself belies this notion. Instead, it describes what, at the time of its identification; the agency considers the minimum system “needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.”

definition of a travel management decision (FSM, 7715). Therefore, in this case, Forest Service policy required a travel analysis (FSM, 7703.25).

The Forest prepared a travel analysis in 2011 (PF, R4). That analysis was used in the development of the proposed action (in this case, certain decommissioning recommendations were included in the proposed action (EA, p. 1-6; FSM, 7712.3 (2)). The travel analysis was incorporated into the environmental analysis and, ultimately, it was used along with the EA analysis to inform the decision as expected by Forest Service policy. There is nothing in NEPA or the regulations that required or compelled the Forest to carry all (or any) recommendations from the Glacier Loon travel analysis into the Glacier Loon proposed action and subsequent NEPA analysis.

While in the end I believe the Glacier Loon travel analysis went beyond what was necessary to support this specific decision, I suspect the depth and detail of the analysis will prove useful and contribute positively to the broader science based assessment currently being developed by the Forest in support of the requirements of 36 CFR 212.5(b).

Issue 2: Neither the EA, DN/FONSI nor TA provide an adequate assessment of the funding needed to maintain and manage the current road and trail system, the Project system or the MRS, in violation of the NEPA, Travel Planning regulations, and the Administrative Procedures Act, among others.

Response: Requirements related to Travel Analysis and Travel Planning regulations are addressed under issue 1 above.

As discussed in DN Appendix 5 all applicable forestry BMPs will be applied for activities that occur on National Forest Service (NFS) lands under the Selected Alternative, which addresses the requirements of the Clean Water Act and the Flathead National Forest Land and Resource Management Plan. The number of miles of BMP improvements for the Glacier Loon Project will be approximately 29.3 miles. The DN Appendix 4 (p. 4-2, Table 4-1) details the road maintenance associated with the project. Best Management Practices include, but are not limited to, structural and nonstructural controls, operations, and maintenance procedures, which can be applied before, during, or after project activities to reduce or eliminate introduction of pollutants into receiving waters (DN, pp. 5-113 to 5-114).

Project File (PF) Exhibits (pp. S-5, S-6, S-7, and S-9) display costs associated with road construction and maintenance. PF, S-9 displays total road maintenance costs for each action alternative. When roads are used for active timber haul, the activities pay for the road maintenance and required BMPs through timber sale receipts. Both project activities and BMPs will be implemented simultaneously.

The EA discusses multiple potential funding sources for project activities including timber sale revenues, Congressionally-approved funds, or direct project funding. It is anticipated that the Glacier Loon project “may be offered under a Stewardship Contract” (EA, p. 2-15). The economic analysis in the EA (pp. 3-401 to 3-410) states the “Forest may use dollars received

from timber sale receipts to help fund all or a portion of these other project activities using stewardship contracting authorities. Project costs in excess, or not covered by those authorities, would have to be paid with appropriated dollars.”

Most of the road system within the area has been managed as closed. Closed roads cost much less to maintain than open roads. This is because blading, brushing and surfacing material replacement are not needed if the road is closed to public use. The closed road system has minor costs to maintain. Those costs are primarily the maintenance of drainage structures sufficient to insure that the road systems do not significantly contribute to erosion or sedimentation and costs associated with maintaining gates and berms (PF, Exhibit R-4, p. 14). The analysis and project are in compliance with NEPA and Travel Planning regulations.

Issue 3: The EA, DN/FONSI and TA, in failing to plan for and implement an affordable and sustainable MRS, also fail to provide for the full implementation of all measures needed to minimize adverse impacts on resources. The laws this violates include but are not necessarily limited to the NEPA, National Forest Management Act, Endangered Species Act, Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clean Air Act, and Migratory Bird Treaty Act.

Contention 1: The Forest Service in general and the EA in particular, do not adequately monitor and demonstrate quantitatively that BMPs are indeed effective, in spite of claims that they are.

Response: This specific contention was not raised by the appellant in Scoping Comments to the Project or in comments to the EA. A comment was made on the EA by another appellant (Alliance for the Wild Rockies) requesting that the Forest disclose their record of compliance with State Best Management Practices (BMPs) regarding stream sedimentation from ground-disturbing activities (DN, Appendix 5, pp. 5-152 to 5-153). The Forest responded as follows:

“The Glacier Loon EA considered the issue of sediment delivery from the network of roads, ditches, and culverts in the project area (EA, pages 3-149 to 3-182). As part of the EA for the Glacier Loon Project, the WEPP Model was used to estimate existing potential annual sediment yield from the existing roads in the project area. Stream crossings are the primary introduction point for sediment from the road system into a stream channel. The WEPP Model assumptions and modeling results for the existing potential road associated sediment for each analysis watershed are also displayed in the EA on these pages.

In a Memorandum of Understanding with the State of Montana, the Forest Service has agreed to follow BMPs during timber harvest and road construction activities. The Glacier Loon Project will utilize all applicable BMPs during project design and implementation as described in Best Management Practices for Forestry in Montana – 1997. Also Forest Service - Soil and Water Conservation Practices (FSH 2509.22) are combined with Montana State BMPs for incorporation into project design and implementation to ensure that soil and water resources are protected. Project specific BMPs are identified in Appendix 4 of the DN.

Programmatic BMP monitoring on the Flathead and Kootenai National Forests in Montana has found that, since 1988, BMPs were effective 99.3 percent of the time when properly applied on glacial till soils (SIC)” (USDA Forest Service 2012. National Best Management Practices for Water Quality Management on National Forest System Lands. Volume 1: National Core BMP Technical Guide. FS-990a. Washington, DC. 177 p.). [Note: This document can be found in the project file at M-27.]

All applicable forestry BMPs will be applied for activities that occur on FS lands under the Selected Alternative, which addresses the requirements of the Clean Water Act and the Flathead National Forest Land and Resource Management Plan. The number of miles of BMP improvements for the Glacier Loon Project will be approximately 29.3 miles.”

To reinforce the point that the Forest does adequately monitor BMPs as referred to above, individual BMPs have been audited or monitored 2,232 times on the Flathead and Kootenai NFs since 1988 (DN, Appendix 4-3). Information about how the project BMPs will be monitored is included in Appendix 4-3 of the DN. The use of BMPs and other mitigation is in compliance with NEPA.

***Contention 2:** Even with the question of BMP effectiveness set aside, however, it is clear the EA, DN/FONSI and TA fail to identify and secure funding needed to provide for the timely, orderly and continual application of BMPs to all roads in either the current system, project system or MRS. Nor do they in the alternative arrive at a smaller MRS to which all BMPs can be fully applied continually under current funding levels.*

Response: This specific contention was not raised by the Appellant in Scoping Comments to the Project or in comments to the EA. Federal agency compliance with pollution control is addressed through Section 313 of the Clean Water Act, EO 12580 (January 23, 1987), National Nonpoint Source Policy (December 12, 1984), USDA Nonpoint Source Water Quality Policy (December 5, 1986) and the EPA in their guidance "Nonpoint Source Controls and Water Quality Standards" (August 19, 1987). In order to comply with State and local non-point pollution controls, the Forest Service will apply BMPs to all possible non-point sources resulting from management activities proposed in this EA. These BMPs are the Soil and Water Conservation Practices described in the FSH 2509.22 (DN, Appendix 4, p. 4-1).

The Glacier Loon EA (p. 3-388) discusses roads that do not meet current BMPs were identified through field reconnaissance. While meeting BMPs on all roads in the project area would be expensive, this field identification facilitated a prioritization to ensure the roads with the highest environmental risk are treated first and any effects from those roads were appropriately considered in context of this project.

As discussed in DN (Appendix 4-2), water quality goals are identified in the Forest Plan. These goals meet or exceed applicable legal requirements including State water quality regulations, the Clean Water Act, and the NEPA. The appropriate BMPs are selected for each project by an ID Team. In each new location, there is flexibility to design different BMPs depending on local conditions and values and downstream beneficial uses of water. The BMPs selection and design are dictated by the proposed activity, water quality objectives, soils, topography, geology,

vegetation, and climate. Environmental impacts and water quality projection options are evaluated, and various BMPs are considered. A final collection of BMPs is selected that not only protect water quality, but also meet other resource needs. The final selection constitutes the BMPs for the project.

As disclosed in the DN (p. 10; Appendix 5-99), implementation of BMPs (listed in DN, Appendix 4) on 29.3 miles of haul routes is incorporated into the decision. Both project activities and BMPs will be implemented simultaneously. Given that there are currently 101.4 miles of road in the Glacier Loon Project area, this means 29 percent of the total road network would receive BMPs. BMPs will reduce the small amount of erosion that occurs annually on area system roads. In addition, project design includes decommissioning 8.4 miles of roads. There are no project activities planned on the remaining roads within the project area and therefore, BMPs will not be addressed on these routes under the Glacier Loon project. However, these roads were appropriately considered in the cumulative effects analysis for the project.

While NEPA does not require disclosure of how projects will be funded, the EA discusses multiple potential funding sources for project activities including timber sale revenues, Congressionally-approved funds, or direct project funding. It is anticipated that the Glacier Loon project “may be offered under a Stewardship Contract” (EA, p. 2-15). The economic analysis in the EA (pp. 3-401 to 3-410) states the “Forest may use dollars received from timber sale receipts to help fund all or a portion of these other project activities using stewardship contracting authorities. Project costs in excess, or not covered by those authorities, would have to be paid with appropriated dollars.”

Additionally, the Omnibus Public Land Management Act of 2009 (Collaborative Forest Landscape Restoration Program - Project File Exhibit T-14) states: “The Secretary, in consultation with the Secretary of the Interior, shall establish a Collaborative Forest Landscape Restoration Program to select and *fund* ecological restoration treatments for priority forest landscapes in accordance with-- (1) ESA (2) NEPA; and (3) any other applicable law”. The Project File Exhibit notes, the “Fund” established in the U.S. Treasury provides funding for carrying out and monitoring ecological restoration treatments on National Forest System land.

The Project File (Exhibits, S-5, S-6, S-7, and S-9) display the costs associated with road construction and maintenance, and displays total road maintenance costs for each action alternative.

The project and analysis are in compliance with all applicable laws.

Contention 3: *The failure to either provide adequate funding to fully maintain the road and road closure system, or to reduce the system to a size that is adequately funded, also results in unmitigated impacts to other forest resources including but not limited to terrestrial wildlife such as elk, species dependent on old forests and snags out of reach of firewood cutters, and threatened species such as lynx, bull trout, and likely soon, wolverine. And the EA fails miserably to describe the effects of inadequate funding and road maintenance on these and other resources.*

Response: The EA, DN, and Project File include extensive discussions and analysis of road management associated with the Selected Alternative: affects to Water Quality and Wildlife Security (DN, pp. 22 to 28); Affected Environment and Environmental Consequences sections provide the analysis of road management on other forest resources (EA, Chapter 3); Step 4 of the Travel Analysis report considers annual and deferred maintenance costs in the risk/benefit analysis (PF, Exhibit R-4 Travel Analysis, p. 17); Threatened and Endangered Species Biological Assessment includes discussion of potential effects to grizzly bear and Canada lynx, including road effects (PF, Exhibit H-16); and 2010 Swan Valley Grizzly Bear Monitoring Report demonstrates effectiveness monitoring for access management, cover requirements, and timing restrictions in the SVGBCA area (PF, Exhibit H-108). In addition, numerous responses to comments on the EA address the in-depth analyses on existing situations and potential effects of roads and trails on forest resources (DN, Appendix 5 - Response to Comments, pp. 5-72 to 5-79, 5-81 to 5-84, 5-86 to 5-88, 5-96 to 5-100, 5-106 to 5-108, 5-113 to 5-115, 5-117 to 5-118, 5-123 to 5-125, 5-128, 5-130 to 5-132, 5-140, 5-146, 5-149, 5-152, 5-164 to 5-168, 5-179, 5-191 to 5-193, 5-199, 5-247 to 5-248, 5-250 to 5-254, and 5-260 to 5-271).

The project and analysis are in compliance with all the applicable laws.

Issue 4: Although implementation of the agency’s Watershed Condition Framework was launched, in part, by Deputy Chief Joel Holtrop’s 10/20/10 directive (attached), the EA and TA some 12 - 20 months later do not appear to even mention the Watershed Condition Framework (WCF). This even though Glacier Creek was listed as “Functioning at Risk” per the WCF when the EA and TA were written.

Contention 1: The DN, at 5-89, attempts to explain away the listing of Glacier Creek as “Functioning at Risk” per the WCF, calling it a mistake discovered while responding to comments made by Friends of the Wild Swan on the EA – and concluding Glacier Creek is instead “Functioning Properly” per the WCF.

Response: The Forest responded to this issue in the Response to comment (DN, pp. 5-88 to 5-89). The Watershed Condition Framework was a 2011 approach for classifying watershed conditions and to prioritize restoration needs on a national scale. The watershed condition classification reflects the level of watershed health or integrity into the following categories:

- Class 1 = Functioning Properly (1.0 to 1.66)
- Class 2 = Functioning at Risk (>1.66 to <2.33)
- Class 3 = Impaired Function (2.33 to 3.0)

In 2011, an Interdisciplinary Team classified all 6th level hydrologic unit codes (HUC) on the Flathead Forest. The classification used 12 core national indicators: Water quality, water quantity, aquatic habitat, aquatic biota, riparian vegetation, roads and trails, soils, fire regime or wildfire, forest cover, rangeland vegetation, terrestrial invasive species, and forest health.

As a result of evaluating the 12 core indicators, the Glacier Creek Watershed was calculated to be “Functioning at Risk” as displayed on the Washington Office Website. This score was then entered into the National Watershed Classification and Assessment Tracking Tool (WCATT) maintained by the Washington Office of the Forest Service.

In evaluating your comment, we reviewed our data ratings for the 12 core national indicators that the ID Team evaluated for the Glacier Creek Watershed. It was determined that our Forest spreadsheet with these ratings was not consistent with the corporate database maintained by the Washington Office. It was determined that an error was made when the spreadsheet data was input into the corporate database for 2 categories (Fire Effects and Regime and Forest Cover).

This inconsistency has been updated on the national website to reflect these errors. As a result, Glacier Creek is classified as “Functioning Properly.”

The Glacier Loon Project would not degrade Glacier Creek. The Hydrology Analysis in the EA on pages 3-167 to 3-171 concludes all of the action alternatives have negligible impacts to Glacier Creek. The project is using the Watershed condition Framework appropriately.

Contention 2: Regardless, the EA, DN and TA are remiss in not discussing the fact that several nearby watersheds that are also tributary to the Swan River are listed as “Functioning at Risk” per the WCF. These include Cold Creek, Jim Creek and Beaver Creek. The EA, DN and TA are all the more inadequate for not discussing the impacts and cumulative impacts of other projects currently being planned for Cold Creek, Jim Creek and Beaver Creek.

Response: Cold, Jim and Beaver Creeks are outside of the analysis area. The EA does discuss the status of Swan River and determined that the project did not impair those waters.

In addition, no stream in the project area is impaired or on the 303(d) TMDL list (EA, p. 3-161). Because streams in the project area enter Swan River and Swan Lake, which are CWA 303(d) impaired waters, the TMDL and Water Quality Protection Plan were analyzed (EA, pp. 3-152 to 3-160). There are no WQLS in the project area, so no requirements for WQLS are applicable (DN, p. 45). The impacts of the project on the creeks in the project area and the Swan River were analyzed. The project is in compliance with NEPA and CWA.

Issue 5: The TA, at 15, finds “Invasive species on NFS lands in the analysis area are largely associated with roads, trails, utility corridors, and adjacent private land. The most common vector of spread is human activity involving the motorized use of roads and trails.” In a baffling display of irony, the TA, same page, concludes: “The largest issue preventing control of invasive species is the lack of access to infestations on restricted roads.” Standing reason on its head, the TA at 21, concludes roads open to motor vehicles are of lower risk because they are “accessible for weed treatment.” Among other reasons, the above three biases in the TA favor building more roads and then leaving them open as admitted major vectors in the spread of invasive weeds.

Moreover, the EA finds that even temporary roads, after decommissioning, continue to have negative effects on bears and remain “vectors of human use” and an “attractant to forest users” (EA at 3-85, 3-224, 3-234 and 3-343). This will continue to spread invasive weeds and, as will be discussed below, these roads cannot be considered “effectively reclaimed” nor dismissed from calculations of Total Route Density (TRD), in violation of NEPA, NFMA, Endangered Species Act, Clean Water Act, Montana State Water Quality Standards, Montana Streamside Management Zone Regulations, Clean Air Act, and Migratory Bird Treaty Act.

Response: The Forest has determined there would be no significant impact on invasive weeds in the project area (EA, pp. 3-75 to 3-93). The Forest has taken into consideration comments expressing concern about possible increases in noxious weed infestations as a result of project implementation. The Decision Notice affirms precautions will be taken to reduce potential risks for further spread of noxious weeds, including spraying haul routes, washing of machinery, revegetation of temporary roads, and winter logging (DN, pp. 28 to 29). The Decision Notice (p. 28) also shows the selected Alternative D will be the least invasive with respect to the risk of noxious weed increases by decreasing the amount of temporary road construction and an increase in the amount of road decommissioning.

Noxious weed management is governed by FSM 2900. The Flathead National Forest has an obligation to control noxious weeds as required by the State of Montana County Noxious Weed Management Act; the Federal Noxious Weed Act of 1974; and Executive Order 13112, Invasive Species, February 3, 1999.

Contrary to the appellant's statement, the EA, (p. 3-80) discloses approximately 762 acres of the 37,320 acre project area known to host non-native invasive plants. This is approximately 2% of the project area. As described in the no action alternative effects section (p. 3-81), there are many areas of disturbed soils and open bare ground across the Swan Lake Ranger District, which can provide habitat for invasive species. Many of these acres have recently been acquired (including 4,461 acres in the Glacier Loon project area) from the Plum Creek Timber Corporation. The Swan Lake Ranger District is benefiting from the CFLRP project which began in 2009 and continues through 2019. This act has funded weed spraying which is facilitating the control of more infestations than would be possible within regular programs. The Decision Notice, (Appendix 2, 2-7), requires several design criteria to address noxious weeds.

A 2012 Invasives Performance Report accounted for 5,092 acres of treatment on the Flathead National Forest with an average control of 93% which resulted in 3,590 acres restored. I find the Forest adequately disclosed the existing condition and expected effects from the treatments proposed in this project.

The Forest also took into consideration the Flathead National Forest Noxious and Invasive Weed Control Environmental Assessment and the Decision Notice (Exhibits T-5 and T-6). I find the Forest used appropriate methodology and scientific accuracy related to noxious weeds to limit possibilities of further infestations of noxious weeds during and after the project and is in compliance with NEPA.

Issue 6: The EA, DN and TA fail to comply with Amendment 19 by attempting to replace Amendment 19's requirements for "reclaimed" roads with various levels of "decommissioning" and "Intermittent Store Service" (ISS) roads.

Contentions 1, 2, and 3: Amendment 19 states: "A reclaimed road has been treated in such a manner so as to no longer function as a road or trail and has a legal closure order until reclamation is effective. . . . The acceptable lag time for the treatment to become effective and the expected persistence of people to continue to use a road should dictate the amount and type of initial, and perhaps follow-up, treatment required. Greater initial revegetation and barrier work will be required if the expectation is to meet

reclaimed road criteria in one year as opposed to ten years. . .” (Amendment 19 Appendix D a.k.a Flathead Forest Plan Appendix TT).

Response to contention 1, 2 & 3 (which covers the appellant’s Item F, Points 1-15 and Item G, Point 1): The Forest answered this issue in the Response to Comments. In the DN (pp. 5-260 to 261) the responsible official stated, “The effects of temporary roads on Threatened and Endangered Wildlife Species are discussed in the EA (pp. 3-216 to 3-241). Temporary roads, restricted roads, and open roads are discussed in detail. Under the “Use of Restricted Roads” discussion on page 3-234, the EA provides details concerning your comment. Existing open roads and closed roads (currently bermed or gated) will be used to access treatment units. The bermed and gated roads are Maintenance Level 1 Roads. They are constructed to the minimum standards necessary and are designed to be re-used for timber management. The gated roads are closed year-long. Between re-entries both the bermed and gated roads are closed to public use. Gated and bermed Maintenance Level 1 Roads are included in the Total Road Density (TRD) for a grizzly bear subunit. However, reclaimed Maintenance Level 1 Roads (not passable) are not included in TRD.

Amendment 19 to the Forest Plan provides standards for grizzly bear management through motorized access and security core habitat standards and objectives. The Amendment 19 objective for the Buck Holland and Glacier Loon Grizzly Bear Subunits is “No Net Loss” for Open Road Density (ORD), Total Road Density (TRD), and Security Core. The term “net” under Amendment 19 and the Swan Valley Grizzly Bear Conservation Agreement (SVGBCA) refers to “motorized access” that will not increase as a result of Forest Service activities (EA, p. 3-236). Table 3-69 demonstrates that the proposed alternatives for the Glacier Loon Project comply with standards and guidelines outlined in the SVGBCA. Tables 3-70 and 3-71 in the EA also display the ORD and TRD by individual subunit for the alternatives. The road densities are displayed for pre-project (existing), during project, and post-project. The ‘During’ figures include temporary roads. The project is in compliance with Forest Plan Amendment 19.

The Forest did re-consult on Appendix 19 on December 21, 2009 (PF, Exhibit H-163). The re-consultation revised the A19 implementation schedule by committing to specific reductions in open motorized access, total motorized access and security core within specific grizzly bear subunits for 2010 -2015 or until the forest plan revision is completed (schedule for 2015). During this period, the Forest will continue to implement access management requirements in exiting decision...further restrict administrative use in 6 grizzly bear subunits where national forest ownership is > 75 %...; and continue cooperative actions to implement the Swan Valley Conservation Agreement.”

Issue 7: The EA, DN and TA, however, fail to provide a rationale for why some roads will be re-contoured and some will not, making this distinction arbitrary, capricious and an abuse of agency discretion not in accordance with law.

Contentions 1 and 2 (which covers the appellant’s Item G, Points 2 to 6): Moreover, nowhere do these documents provide an adequate discussion or assessment of the importance of maintaining subsurface water flow that is often interrupted and turned into surface flow by roads cut into hillsides. These documents fail to provide a rationale for deciding whether to build a road in the

first place and whether re-contouring a road during decommissioning or reclamation can effectively return that water to sub-surface.

Response: The water quality discussion (DN, pp. 22 to 24) and the Response to Comments (DN, pp. 5-264 to 5- 266) discusses modern road and water management approaches and demonstrates the trade-offs that were considered where deciding to reclaim a temporary road or add it to the system for long term access needs.

The Transportation Section, (EA, pp. 3- 387 to 3-396) discusses the road system and the rationale for management of the roads. Table 3-96 displays the “Active” and “Passive Road” decommissioning proposed by Alternative. Note that all roads to receive “Passive” decommissioning are roads that have revegetated naturally and are in a state that are impassible to full sized motor vehicles. They have not been recontoured. The restoration of ecological processes has already been initiated on these roads and recontouring is not necessary. Recontouring these roads now has the potential risk of exposing mineral soil and increasing short-term erosion. The analysis and decision are in compliance with NEPA.

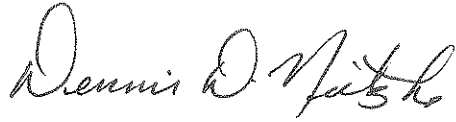
Issue 8: The TA, at 8, acknowledges that, along with the acquisition of Legacy Lands, Forest Service land now comprises 80% of the analysis area. The EA, however, fails to determine whether either of the affected BMU subunits now consists of over 75% Forest Service land. If so, such subunits must be subject to the 19/19/68 limits for ORD, TRD and Security Core per Amendment 19 - they can no longer be excused to the lower “no net loss of security core” and “no net increase in road density” standards afforded to subunits where Forest Service land is less than 75%.

Response (which covers the appellant’s Item H, Points 1 to 5): The forest clearly outlines how they have incorporated this regulatory framework into design criteria for the selected alternative (DN, pp. 34 to 36). The 19/19/68 standard as specified in Amendment 19 does come with clarification found within the Decision Notice that set the standard. “In the 14 BMU subunits that are less than 75 percent National Forest System lands, it is not possible to achieve the BMU Subunit objectives on National Forest System Lands alone. Therefore, the Forest Plan objectives described above for open and total access density and security core area do not apply to these BMU Subunits.” For the Glacier Loon project area the standard that applies is “no net increase”, not “19/19/68”. Even though the ownership percentage has changed through recent land acquisition, there is a fiber agreement and associated rights with the newly acquired lands that prevent the Forest from exercising full management authority on those lands. Therefore, the 19/19/68 standard still does not apply. When considering the no “net increase” standard, there is no requirement that this be displayed in miles/square mile. The measure is open roads, as defined in SVGBCA, within the project area existing condition vs. project completion.

The project and analysis is in compliance with all applicable laws.

RECOMMENDATION

I have reviewed the record for each of the contentions addressed above and have found that the analysis and decision adequately address the issues raised by the appellant. I recommend the Forest Supervisor's decision be affirmed and the appellant's requested relief be denied.

A handwritten signature in cursive script that reads "Dennis D. Neitzke". The signature is written in black ink and is positioned above the printed name and title.

DENNIS D. NEITZKE
Grasslands Supervisor