

Lynn Hagarty  
Kootenai National Forest  
31374 U.S. Highway 2,  
Libby MT 59923-3022  
E-mail: [r1\\_montanore@fs.fed.us](mailto:r1_montanore@fs.fed.us)

Wilderness Watch  
PO Box 9175  
Missoula, MT 59807  
406.542.2048  
[wild@wildernesswatch.org](mailto:wild@wildernesswatch.org)

December 21, 2011

Dear Ms. Hagarty,

Thank you for the opportunity to comment on the proposed Montanore Mine. Wilderness Watch commends the agencies for their hard work on the environmental analysis for this project. However, we believe that significant concerns exist that bar this project from being lawfully implemented.

Wilderness Watch is the only national organization whose sole focus is the preservation and proper stewardship of lands and rivers included in the National Wilderness Preservation System (NWPS) and National Wild & Scenic Rivers System (NWSRS). The organization grew out of the concern that while much emphasis is being placed on adding new areas to these systems, the conditions of existing Wilderness and rivers are largely being ignored. We believe that the stewardship of these remarkable wild places must be assured through independent citizen oversight, education, and the continual monitoring of federal management activities.

Scientific research reveals evidence of escalating damage throughout the Wilderness System - a trend we cannot allow to continue. Congress established the NWPS in 1964 "to assure that an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States..." Unfortunately, simply designating a Wilderness or Wild and Scenic River does not guarantee its protection.

Instead, the long-term preservation of Wilderness depends on the commitment of informed citizens to preserve each area's wilderness character. Wilderness Watch is committed to citizen oversight, public education and when necessary, legal and legislative action, to protect America's finest environmental legacy for present and future generations.

Our concerns fall into several broad categories. First, we find the Wilderness analysis contained in the Draft Environmental Impact Statement and Supplemental Draft Environmental Impact Statement (hereafter cumulatively referred to as the SDEIS) inadequate. Second, the SDEIS does not adequately consider the effects of climate

change. Third, we are concerned about the project's impact on water quality. Fourth, we believe that the disturbances to protected species that this project will entail are unlawful. Fifth, we believe that the process by which the Kootenai National Forest (KNF) proposes to amend its Forest Plan through this SDEIS are unlawful. Sixth, we find the impacts to old-growth unacceptable. Finally, we are concerned that the proposed mitigation and reclamation measures suggested in the SDEIS will not fully mitigate for the long-term environmental damage this mine will cause. We will discuss these concerns in the order they are presented here.

## **I. The Wilderness Analysis**

It should be initially noted that an underground mine is fundamentally incompatible with wilderness preservation. The National Environmental Policy Act suggests that agencies must take a "hard look" at impacts to resources they manage that stem from proposed activities. The 1964 Wilderness Act designated a wilderness resource that the Forest Service is required to manage. The Forest Service must manage these wilderness areas for "wilderness character", as measured by certain qualities. Academic literature produced by the Forest Service and other managing agencies identifies core elements of wilderness character as the following: "untrammelled", natural, undeveloped, and provision of opportunities for solitude and unconfined primitive recreation. Wilderness is not only a recreational resource, but also a scientific resource (as indicated by the plain language of the Wilderness Act). To retain both its human and nonhuman values, it requires stewardship and monitoring.

### **a. The Kootenai National Forest does not employ a Wilderness Manager and the wilderness analysis in the SDEIS is inadequate.**

From reviewing the analysis and list of preparers, it appears the Forest Service has not employed a wilderness specialist in its assessment of this project. This is a significant shortcoming given the potential for significant impacts to the Cabinet Mountains Wilderness and the challenges of assessing those impacts. (SDEIS § 4.1.1, pp 529). Indeed, only one individual involved with the preparation of the SDEIS specializes in wilderness, a consultant with ERO Resources Corp. (*Id.* at 532). But the Forest Service must be able to independently determine that the analysis is adequate, a task not achievable when the agency staff involved lack the expertise to make the determination. Moreover, while ERO Resources Corp may be qualified to analyze wilderness impacts, its analysis is inadequate when it is not derived from data obtained through wilderness monitoring and analysis. None of the materials presented for public review show that such monitoring and analysis was either conducted or considered in the SDEIS process. As an illustration, we refer the reader to § 3.24.4.1, pp 416-419, in which the SDEIS briefly considers the proposed mine's impacts to the Cabinet Mountains Wilderness (CMW).

### **b. The SDEIS incorrectly characterizes disturbances to wildlife caused by this project as "short term."**

The SDEIS characterizes the disturbances to wildlife caused by blasting during the construction of the Rock Creek and Libby ventilation adits and the use of helicopters as

“short term.” However, this characterization is erroneous. The CMW’s struggling grizzly population may be affected by both the physical and noise disturbances in ways that may have long term consequences, particularly in light of grizzlies’ known sensitivity to noise disturbances and the population’s downward trend. Further, the SDEIS completely fails to consider the long-term necessity for monitoring and maintaining the adits. Acid mine drainage (AMD) from adits is a real and present danger to water quality and wildlife. The SDEIS concludes the risk of this is low, but later characterizes the potential for AMD as “uncertain” (SDEIS § 3.9.4.3.1, pp 209). Monitoring will be necessary to ensure that AMD is not compromising the quality of naturalness the Forest Service is required to protect. Further, such monitoring will be required for many years after project completion (*See* SDEIS § 3.9.4.1.1, pp 204). Since steady state groundwater conditions are not projected to be reached for 1200 to 1300 years and the mine void and adits are not expected to fill for 490 years, it seems arbitrary and erroneous to characterize the disturbance involved with monitoring and maintaining the adits as “short term.” Further, failure to conduct this sort of long-term monitoring would be impermissible in light of the Wilderness Act’s mandate that the Forest Service ensure “naturalness” in wilderness. Human presence to conduct this monitoring will affect wildlife in the CMW.

**c. The SDEIS does not sufficiently address the effects of increased wildlife presence in the CMW.**

The SDEIS correctly considers the potential impacts on wildlife outside of the CMW as causing impacts inside the wilderness. However, it does not consider the effects of these impacts. Specifically, the SDEIS contemplates that some wildlife species may spend more time inside the wilderness as a result of the activities outside of the wilderness. Is the wilderness suitable habitat for these species? Will their presence increase human-wildlife conflicts? How will displacement and disturbance impact their fecundity? These issues will affect the qualities wilderness was designated to protect.

**d. The SDEIS does not assess how groundwater drawdown will affect wilderness character or recreational opportunities.**

The SDEIS contemplates that groundwater drawdown from the mine might affect water levels and species habitat/composition in Rock Lake, East Fork Bull River and East Fork Rock Creek. Are these changes permissible in Outstanding Resource Waters? How will this affect naturalness? What about perceived naturalness? Will it affect recreational opportunities for fishing? Can an ecosystem bearing these impacts be characterized as untrammelled? The SDEIS neither contemplates these questions nor responds to them.

**e. The SDEIS relies on no quantitative or qualitative data about wilderness experiences. It cites no academic literature. It fails to employ a discernable analytic framework and makes baseless assertions about effects on wilderness.**

The SDEIS states: “Apparent naturalness would not be substantially affected by the proposed mine disturbances outside wilderness boundaries.” (SDEIS, § 3.24.4.1, pp 416). This assertion appears to be baseless. First of all, elsewhere the SDEIS states that some of the mine works, including the adit situated on private property within the wilderness boundary and the transmission line, would be both visible and audible from the

wilderness. Second, it is unclear whether any indicia are actually used to assess “naturalness” and wilderness experience of visitors in this wilderness. Have data documenting user experience in the CMW been collected? None of the appendices display any such references and no academic literature about wilderness is cited. This appears to be an arbitrary assertion with no basis in measurable fact. This is particularly troubling as the Forest Service, through Aldo Leopold Wilderness Research Center, has published a wealth of articles guiding decision-making processes in federally-designated wilderness and wilderness character monitoring. *See e.g.*, Peter Landres, et al. Technical Guide for Monitoring Selected Conditions Related to Wilderness Character. USDA Forest Service, General Technical Report WO-80. US Government Printing Office, Washington, DC. (2009); Peter Landres, et al., Applying the concept of wilderness character to national forest planning, monitoring, and management. Gen. Tech. Rep. RMRS-GTR-217WWW. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station. (2008); Peter Landres, . A Framework for Evaluating Proposals for Scientific Activities in Wilderness. In: McCool, Stephen F.; Cole, David N.; Borrie, William T.; O’Loughlin, Jennifer, comps. 2000. Wilderness science in a time of change conference— Vol. 3: Wilderness as a place for scientific inquiry; 2000 May 23–27; Missoula, MT. Proceedings RMRS-P-15-VOL-3. Ogden, UT: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station. 239-245. (2000). These, and other resources easily available at [www.wilderness.net](http://www.wilderness.net) appear to have been completely discounted. Finally, “apparent naturalness” is not the only quality the Forest Service must protect; it also is mandated to protect actual naturalness, which is not analyzed in any sort of depth in either the DEIS or the SDEIS.

The analysis of impacts to primitive recreation is similarly baseless.

The factual assertions in this document with regards to effects on wilderness character are supported by no data. They do not appear to have been considered according to any ordered framework, including those recommended by the Forest Service. It is unclear whether the KNF engages in any monitoring of its wilderness resource and if so, how the results of that monitoring have been considered in the decision-making process around this mine. Statements about how wilderness character will be affected by the mine when no actual baseline data about wilderness experiences has been collected do nothing to aid the public in understanding the consequences of this mine.

**f. The Forest Service must respond to the following.**

The Forest Service should respond to the following:

- How does the KNF monitor wilderness character in the CMW and what are the results of that monitoring?
- What wilderness experiences do users value?
- How will recreational use be affected and what data support that determination?
- How much recreational use does the wilderness receive?
- How will increased access to the wilderness (that the SDEIS suggests will occur) affect wilderness experiences and what is the basis for that assessment?
- What framework has the KNF employed to assess impacts to wilderness character?

- What visual impacts will be caused by the mine?
- What audible impacts will be caused by the mine?
- How will wildlife within the wilderness be affected by the long-term hydrologic changes caused by the mine?
- How will the mine affect the wilderness's untrammeled quality?
- How will the mine affect both actual and perceived naturalness within the wilderness?
- How might subsidence affect the wilderness, particularly in light of the subsidence that has occurred at the Troy mine, which has been used as an analog for the proposed Montanore mine?
- How would changes in water quality and quantity caused by the mine affect the wilderness?
- How would the mine affect opportunities for solitude, particularly in light of increased helicopter presence and improved recreational access?
- How would the mine affect opportunities for primitive recreation such as fishing, hunting, horsepacking, backpacking, and backcountry skiing?
- How might these effects be exacerbated in combination with the proposed Rock Creek Mine?
- What impacts from climate change on the wilderness risk to be exacerbated by the effects of this project (i.e., water scarcity)?
- What publications have the preparers of the SDEIS relied on to make their determinations about impacts on wilderness character?

## II. Climate Change

The Council on Environmental Quality (CEQ) draft guidance that the Forest Service cites as authority requiring climate analysis requires considering both the effects of the project on climate change and the effects of climate change on the project. Nancy H. Sutley, Draft NEPA Guidance on Consideration of the Effects of Climate Change and Greenhouse Gas Emissions, 6, February 10, 2010. <http://www.whitehouse.gov/sites/default/files/microsites/ceq/20100218-nepa-consideration-effects-ghg-draft-guidance.pdf>.

### a. The SDEIS does not consider the effects of climate change on the project.

The SDEIS considers some effects of the project on climate change but does not analyze the effects of climate change on the project. (SDEIS, § 3.3.3.4, pp 117). Serious concerns exist. For instance, climate analyses anticipate that water cycles will be affected. The impacts to these water cycles should be considered when constructing the mine workings. High elevations, such as those in the CMW where Rock Lake is situated, risk to be more impacted by the effects of climate change. (*Id.*). Further, effects on snowshoe hare populations stemming from climate change have been documented—these in turn affect the sensitive Canada lynx. Those impacts are absent from the analysis in the SDEIS.

### b. Proposed sediment ponds may not be adequate in light of increased incidence of heavy precipitation events projected to occur as a result of climate change.

The SDEIS states that the storm water runoff from mine facilities would be directed to sediment ponds constructed to contain runoff from a 10-year, 24-hour storm. (SDEIS, pp S-34). If more extreme weather events occurred, overflows would be directed into nearby streams. However, science confirms that short-term, heavy precipitation events have increased as a result of climate change. (*See, e.g.*, SDEIS § 3.4.4.2, pp 127). Therefore, the likelihood of a 10-year, 24-hour storm occurring may be greater than it has been in the past. To determine whether these ponds will be adequate to contain the resulting runoff, the Forest Service should use existing climate models to anticipate the effects of climate change on precipitation patterns in the project area. If the Forest Service does not conduct such analysis, it should analyze potential impacts of frequent runoff from the sediment ponds to affected streams.

Similarly, wildfires are projected to occur more frequently and become more severe as a result of climate change. Erosion is a common incident of wildfire. In the case of wildfire combined with these extreme precipitation events, will these sediment ponds be adequate? Climate modeling is needed to address this question.

**c. The SDEIS should consider the effects of climate change on wildlife in combination with the proposed mine.**

The proposed mine will degrade bull trout and westslope cutthroat trout habitat. It will also degrade fish habitat in Rock Lake by decreasing water levels, and will change groundwater hydrology.

The main mechanisms by which habitat degradation will occur are stream dewatering, sedimentation and nutrient changes. Stream dewatering combined with nutrient changes may result in warmer water temperatures that decrease habitat quality for certain species. How will these effects be compounded by the warmer temperatures and increased incidence of drought projected to occur as a result of climate change? Similarly, sedimentation may increase due to more frequent extreme precipitation events and increased wildfires. Without climate analysis it is impossible to tell whether the mine might threaten the continued existence of the bull trout or westslope cutthroat trout.

The proposed mine will also disturb late-succession snowshoe hare habitat, in turn affecting Canada lynx populations (SDEIS, pp S-55). However, the snowshoe hare is already disadvantaged by the effects of climate change. Due to climate change there has been less snow, and the snowshoe hare's natural camouflage has become a liability. Its large feet have lost their competitive edge. Likewise, the large-footed lynx has lost its competitive edge at hunting this elusive quarry. How will changed precipitation patterns affect snowshoe hare, and thus, Canada lynx populations on the KNF? Climate modeling is needed.

It is unclear whether the KNF's grizzly population relies on whitebark pine as a food source, but that species is also particularly vulnerable to climate change. That effect should be considered as part of the analysis of the effects of displacement on the KNF's grizzly population.

**d. The analysis should also consider the effects of climate change on hydrologic cycles.**

While the incidence of heavy precipitation events is projected to increase as a result of climate change, overall precipitation is expected to decrease. This could affect the rate of groundwater recharge, exacerbate the effects of diverting water for use in the mine workings, and increase the overall impacts to any bodies of water affected. These impacts require special analysis in wilderness, where discernable impacts should be avoided at all costs. It may change the timeframe over which monitoring will need to occur by affecting how long it takes for the mine void to fill.

These effects cannot be fully anticipated without climate modeling.

**e. To be adequate, the analysis must consider the effects of climate change on the project.**

To fully consider the effects of climate change on the project, climate modeling is required.

**f. The Forest Service should factor the carbon cycles affected by proposed logging in old-growth into its analysis of the effects of the project on climate change.**

Old-growth forests sequester enormous amounts of carbon. Disturbance to these forests will not be easily reversible as it takes a long time for a forest to reach an old-growth state. How much carbon will be lost as a result of this logging? How will disturbance affect forest carbon sequestration?

**III. Effects on Water Quality and Fish**

Dewatering in a number of area streams, as well as in Rock Lake, will be persistent for years post-closure and will cause substantial impacts to fish habitat in those bodies of water. These bodies of water may also be affected by mineralization from the mine workings. Particularly troubling is the potential for nitrogen contamination which, combined with warmer water temperatures (due to lower water levels and the effects of climate change), may cause algal growth that could threaten fish habitat.

Critical bull trout habitat is designated in Libby Creek, Poorman Creek, Ramsey Creek, Rock Creek, West Fisher Creek and East Fork Bull River. All of these bodies of water risk to be affected by the proposed mine. Specifically, all of these streams are anticipated to have lower baseflows for many years as a result of the project. (SDEIS § 3.6.4. 14, pp 178). Some will also experience changes in nutrient composition and sedimentation that will affect aquatic habitat.

**a. Libby Creek**

Libby Creek is expected to experience Nitrogen contamination that may cause algal growth and reduce available oxygen in the water. (SDEIS § 3.6.4.2.3, pp 140). The SDEIS does not analyze whether algal growth would increase to the extent that it would be considered “nuisance algae.” The habitat in Libby Creek is already impaired as a result of high levels of fine sediment. The SDEIS cites a possibility for failure of the Little Cherry Creek sediment impoundment as a significant risk factor for increased

sedimentation in the river. (SDEIS § 3.6.4.2.1, pp 134). However, the proposed sediment impoundment is only designed to accommodate a 10-year, 24-hour precipitation event and the frequency of such events will likely increase due to climate change. Therefore, the probability of sedimentation and consequent habitat impairment as a result of this project is substantial. Because the SDEIS fails to sufficiently analyze the effects of climate change, it anticipates the likelihood of such sedimentation as small and does not respond to potential impacts of the sedimentation. Further, it omits analysis of effects on Libby Creek from the higher levels of copper that may occur as a result of the mine because it lacks sufficient baseline data to do the analysis. This is not a legally-valid reason for such an omission, particularly in light of the other potential for degradation. (SDEIS § 3.6.4.2.4, pp 143). Finally, the SDEIS also anticipates that the brook trout, which is already outcompeting the bull trout in the Libby Creek drainage, may gain an additional competitive advantage from changes caused by this project, threatening the continued existence of the bull trout. (SDEIS § 3.6.4.2.7, pp 146).

The SDEIS states: “Without mitigation, the effects on habitat in the upper East Fork Rock Creek would be substantial and last for hundreds of years. The reduced streamflow would acerbate (*sic*) the chronic dewatered condition during low flow in Rock Creek.” Obviously, this and other unmitigated impacts are incompatible with the Forest Service’s mission to improve water flows. For the Forest Service to approve a project that would result in substantial, long-term impacts to water quality and fish habitat would be arbitrary and illegal.

#### **a. Rock Lake and Rock Creek**

The SDEIS also suggests that lower macroinvertebrate production as a result of nutrient changes in Rock Lake may affect fisheries. (SDEIS § 3.6.4.2.3, pp 222). Yet it states that opportunities for primitive recreation will not be affected in the CMW. This is contradictory. Fishing is an important form of primitive recreation in wilderness and was discussed at length in the Congressional Record preceding the passage of the Wilderness Act.

Impacts to fish passage in Rock Creek are anticipated (SDEIS § 3.6.4.10, pp 164). Such impacts are likely to affect bull trout passage and will make the bull trout more vulnerable to environmental changes. Projected climate change should be considered as a factor in anticipating such changes. Downstream from Saint Paul Lake, changes are also anticipated. The SDEIS contemplates that the cumulative effects of this project may cause long-term loss of genetic diversity to bull trout populations. (*Id.* at 165). Will these cumulative factors jeopardize the continued existence of the bull trout?

#### **c. RHCAs**

All of the proposed alternatives involve constructing facilities in Riparian Habitat Conservation Areas (RHCAs) (SDEIS § 3.6.4.11.2, pp 171). The agencies’ preferred alternatives require disturbance of 195 areas of RHCAs. (*Id.* at 149). However no timber cutting is permitted in these areas except in cases of natural disaster. It is unclear how the Forest Service proposes to construct these facilities without cutting timber.

#### **d. Waste Rock Storage**

During the evaluation phase, 256,000 tons of waste rock would be stored on private land at the Libby Adit site in a lined storage area. Seepage from this rock would eventually be discharged into Libby Creek. The reclamation procedures associated with disposing of this rock are unclear. It is critical that a monitoring and reclamation plan is developed and implemented because pit liners are subject to tear. A lined pit is not an adequate long term storage plan for these toxic wastes.

#### **e. Ramsey Creek**

The proposed project will affect water quality and quantity in Ramsey Creek. This will in turn affect habitat quality for the bull trout and grizzly bears that use that drainage. Disturbance in this drainage should be avoided.

#### **f. East Fork Bull River**

East Fork Bull River is a highly valued trout fishery with a genetically-pure bull trout population. Any alterations to this watershed should be avoided. It merits notice that the headwaters of this river are located in the CMW and are classified as Outstanding Resource Waters. Therefore, any changes permitted by the project are also illegal. The proposed project would occur directly below the headwaters of this river.

#### **g. Wetlands**

The construction process will destroy some wetlands. The mining company proposes to create wetlands in other places to mitigate for this disturbance. It is unclear how this plan is ecologically justified. Are human-created wetlands equally ecologically valuable as naturally-occurring wetlands?

#### **h. Conclusion**

Changes to water quantity and quality as a result of this mine will be substantial and will likely affect fish populations in the project area.

### **IV. Impacts to Protected Species**

Protected species most likely to be affected by the proposed mine are grizzly bears, Canada lynx and bull trout. The effects to bull trout and Canada lynx have been discussed above. We do, however, draw the Forest Service's attention to the proposed project's impact on the old-growth reliant snowshoe hare—the analysis does not seem to address impacts to the lynx population that are possible due to changes in the snowshoe hare's abundance. This section focuses on the effects to grizzly bear populations.

#### **a. The proposed project will disturb grizzly bear habitat.**

The proposed Montanore mine will disturb at least 1,500 acres of grizzly bear habitat (SDEIS, § 35.25.5.2.4, pp 511) and will decrease habitat effectiveness in over 6,000 acres. (SDEIS, § 35.5.5.2.3, pp 497). During construction and operation, it will reduce habitat effectiveness in designated core grizzly bear habitat in BMU 5 and additional grizzly bear habitat in BMU 6. Habitat effectiveness in both BMUs would be reduced below the statutory levels. (*Id.* at 507). BMU 6 already does not meet statutory

requirements for core habitat. The grizzly bear population is already struggling, with a 78 percent chance of a downward population trend. It stands to reason that additional disturbances will negatively affect the continued existence of the grizzly bear in the project area.

This habitat disturbance is not consistent with the objectives set forth in the Forest Plan. The Forest Service correctly acknowledges that to achieve consistency with the Forest Plan, the project would require the Plan to be amended. The Forest Service proposes that the analysis in the SDEIS should suffice to amend the Forest Plan. However, it is unclear how a provision buried in a lengthy EIS devoted to a mining project suffices to fulfill the notice and comment requirements NEPA imposes, particularly where the existence of a charismatic species is at stake.

**b. The proposed project would use helicopters in grizzly bear habitat, disturbing the bears.**

Grizzly bears are particularly vulnerable to noise disturbances. The Federal District Court in Montana acknowledged this sensitivity in *Alliance for the Wild Rockies v. Bradford*, where it granted a temporary injunction for a helicopter logging project proposed on the KNF, citing potential for “irreparable harm.” *Alliance for the Wild Rockies v. Bradford*, 2010 WL 2399349 (D.Mont., 2010). The use of helicopters during the construction of the transmission lines, and for maintaining transmission lines, would negatively affect bears and their habitat, possibly resulting in habitat avoidance and consequent displacement of the bears. The SDEIS characterizes this disturbance as “short-term” because it would only occur in 10-day blocks, but it is more properly considered a “long-term” disturbance because the KNF proposes to conduct maintenance of the transmission line by helicopter. (SDEIS § 3.23.5.2.3, pp 480). These impacts would affect the viability of the struggling grizzly bear population in the KNF.

**c. The proposed project would increase access to grizzly bear habitat, potentially increasing grizzly bear mortality.**

Human-grizzly encounters are one of the leading causes of bear mortality. (SDEIS, § 3.25.5.2.2, pp 479). The road construction, clearing of the transmission line corridor, and mine facilities themselves involved with the proposed project would all increase the possibility of human-bear encounters. (*Id.* at 506). These developments will decrease habitat effectiveness. The developments will disrupt the habits of grizzly bears currently using the area and may bring them into more contact with humans. Likelihood of human-grizzly encounters will be increased by presence of road kill, food wastes, and other attractants incident to human use of the area. The mitigation measures the Forest Service proposes will not prevent these effects from occurring.

**d. The Forest Service’s proposal to fund bear monitoring and procure additional lands to designate as grizzly bear habitat will not mitigate for the disturbance in grizzly habitat.**

The Forest Service proposes to mitigate for these developments by requiring the mining company to pay for additional law enforcement and monitoring activities focused around the grizzly bear. However, if there is a need for additional law enforcement and

monitoring activities, the Forest Service should seek additional funding from other sources to conduct these activities. Requiring the mining company to pay for enforcement and monitoring that should already be taking place does little to improve the situation of the grizzly bear.

The proposed enforcement activities would actually provide greater benefit to human communities, by providing employment to area residents, than to the ecological community of which the bear is a part. Indeed, while this proposed mitigation might help reduce human-bear conflicts, it will not prevent harms stemming from habitat destruction and population displacement. The Forest Service's proposal essentially aims to substitute funding for human activities for the protection it is required to provide the struggling grizzly bear under the Endangered Species Act.

Further, if the lands the Forest Service seeks to procure as "substitute" habitat are suitable for use by grizzly bears, it is likely the bears are already using the habitat. Therefore, procuring the habitat will not actually secure additional habitat for the bears. If the bears are not already using that habitat, it is because the areas they are using are preferable to them. Thus, by procuring this habitat, the Forest Service will ensure that displaced bears are forced to move from areas to which they are accustomed into less suitable habitat. Moreover, the habitat they are currently using will still be destroyed.

Finally, the SDEIS discloses that cumulatively, grizzly bear habitat will be disturbed in spring, the season most crucial for the grizzly bear's survival.

**e. It is unclear whether the lands proposed to be procured will be equally valuable as habitat, and whether they will be available.**

Because the Forest Service cannot disclose where the proposed "replacement habitat" is located, the public cannot analyze whether the lands are comparable. The public also cannot speculate as to how the replacement habitat might change the situation of the grizzly bear population. It is far from clear that these lands will actually be available if the project moves forward. Finally, if so-called core habitat can simply be destroyed at will through arbitrary Forest Plan amendments meant to facilitate resource extraction projects, it is unclear that replacement habitat procured will actually enjoy any long-term protection. Will timber harvest be permitted in replacement habitat? What guarantee is there that these lands will actually be preserved for use by the grizzly bear?

If the Forest Service fails to procure comparable lands as it promises in its proposed mitigation plan, its implementation of the project will be unlawful. In effect, failure to purchase suitable replacement habitat would constitute misleading the public because .

**f. The Forest Service may not lawfully begin the project until after lands proposed to be purchased are procured.**

Because of the danger of misleading the public, the project should not be implemented until suitable replacement habitat has been procured and the public has had the opportunity to comment on its suitability. To fulfill the public notice and comment requirements mandated by NEPA, the public must be informed of the nature and location

of the lands to be purchased. A better process for this would be for the Forest Service first to purchase the lands and then to disclose their intention to designate the already-purchased lands as replacement habitat. Such action would be more compatible with NEPA but would still not adequately compensate for the net loss of grizzly habitat this action will entail.

**g. If grizzly habitat can simply be un-designated and moved to another area, it is unclear how habitat designation is effective.**

If the Forest Service can easily amend the Forest Plan in a way that will affect grizzly core habitat for the purposes of allowing a proposed project to move forward, it is unclear how designating such habitat complies with the requirements of the Endangered Species Act. Displacement of bears from habitat they are accustomed to using will affect the bears. Similarly, increasing access to such habitat may decrease habitat effectiveness. These changes may affect the bears' presence in the CMW in ways that are not disclosed in the SDEIS.

The process by which this project proposes to amend the Forest Plan to move core grizzly habitat discredits the mitigation promised. The purpose of designating core habitat is to protect that habitat from disturbance. The Forest Service cannot, consistently with preserving the public resource they are required to protect, simply move designated core habitat from one place to another. If they do so, there is no guarantee that "core habitat" will be protected by that designation and the term loses its meaning. Similarly, there is no guarantee that the lands the Forest Service proposes to acquire for grizzly bear use "in perpetuity" will actually enjoy adequate protection.

**h. The project is illegal.**

The proposed project is illegal because it does not comply with the Forest Plan's requirements. (SDEIS, § 35.5.2.4, pp 510).

**V. Forest Plan Amendment**

The KNF acknowledges that the Forest Plan will need to be amended in two places to make this project lawful. The SDEIS proposes that the analysis herein will suffice as environmental analysis for the Forest Plan amendment. It is unclear how amending the Forest Plan as a side note, brought up in an SDEIS is compatible with the open and transparent public notice and comment process required by NEPA. This process appears to be unlawful.

If the project is inconsistent with management direction set forth in the Forest Plan, it should not move forward. If the project will disturb resources the Forest Service must protect, it is illegal. The purpose of having a Forest Plan is to protect against this sort of capricious action: action that will result in long-term changes to the ecological composition of the forest ecosystem held in the public trust for the purpose of granting a short-term (16-year) economic benefit to a privately-owned mining company.

**VI. Impacts to Old-growth**

The KNF proposes to build the transmission line in designated old-growth. To mitigate for this impact, the KNF will designate other forested land to attain old-growth qualities. However, the purpose of designating old-growth is to prevent it from being disturbed. If the Forest Service can simply disturb old-growth and designate some land elsewhere to attain old-growth characteristics, it seems uncertain that the “replacement” old-growth will actually receive any guarantee of protection.

Further, old-growth forest is by nature almost irreplaceable. That is why it is protected. The proposed disturbance of old-growth forest will result in habitat loss for old-growth dependant species in the hundreds of years it takes for the so-called “replacement” old-growth to attain old-growth characteristics. The proposed logging will create edge effects that alter microclimates within adjacent old-growth stands, extending the impacts of the project beyond the proposed project area. The extent of these edge effects is not fully disclosed in the SDEIS. The consequent habitat loss will be substantial and may have snowballing effects up the food chain. Logging old-growth to build the transmission line may also result in net-loss of carbon stored in the forest, an effect that is not analyzed in the SDEIS. The Forest Service has not considered other ways to power this project that would not require building a transmission line, such as the use of solar energy or biomass to generate electricity.

## **VII. Mitigation and Reclamation**

The KNF proposes that the Reclamation bond will cover mitigation and reclamation activities required for 5-20 years after mine closure. However, the full ecological consequences of this mine will not be known until the mine void fills, some 400 years after mine closure. Further, steady state conditions are not projected to be reached until about 1200 years after mine closure, even with mitigation. How will we know whether the reclamation bond is adequate? Is it possible to anticipate long-term, persistent impacts in such a way as to make them compensable? The reclamation bond is likely to be grossly inadequate to cover the damage to public resources this mine will cause.

## **Conclusion**

In conclusion, the project as proposed is illegal because it is not consistent with the Forest Plan. Amending the Forest Plan through this SDEIS is not adequate to meet the public notice and comment requirements mandated by NEPA. The project also fails NEPA because its wilderness and climate analyses are grossly inadequate and do not comply with the statutory requirements. It fails to comply with the Endangered Species Act because it may threaten the continued existence of at least two federally-listed Endangered Species present in the project area. Wilderness Watch also notes that a number of other species not discussed here risk to be adversely affected. Finally, the project will cause persistent environmental impacts in Federally-designated wilderness, making it inconsistent with the Wilderness Act.

The proposed Montanore mine will cause irrevocable damage to public lands and resources entrusted to the Forest Service’s management. The Forest Service cannot,

consistently with its statutorily-mandated responsibilities as steward of this ecosystem,  
lawfully allow this project to move forward.

Thank you again for the opportunity to comment on this project.

Sincerely,

/s/ Talasi B. Brooks  
Research Intern  
Wilderness Watch