



July 9, 2020

Objection Reviewing Officer
Intermountain Region USFS
324 25th Street, Ogden, UT 84401

RE: Objection to the Draft Decision Notice for the Mill Park Forest Restoration Project

Objection submitted via email to comments-intermtn-ashley@usda.gov and comments-intermtn-ashley@fs.fed.us and by USPS Return/Receipt.

Pursuant to 36 CFR Part 218, the Yellowstone to Uintas Connection (Y2U) is filing this Objection to the Draft Record of Decision (ROD) for the Mill Park Forest Restoration Project. The timber sale occurs in the Ashley National Forest, Roosevelt-Duchesne Ranger District, Duchesne County, Utah. The Forest Service Responsible Official is Acting Forest Supervisor Rebecca Hotze.

On May 19th, 2020 (Published Public Notice Date May 26th) Acting Forest Supervisor Rebecca Hotze decided to implement the Mill Park Forest Restoration Project proposed action, as detailed in the March 2020 environmental assessment (EA) and finding of no significant impact (FONSI). This will involve approximately 3,225 acres of vegetation treatments and stream and meadow restoration activities at the head of Hells Canyon. Landmarks in the area include Mill Park, Cow Park, Center Park, and Flea Flat.

Treatments will include commercial timber treatments, planting, and pre-commercial thinning, as well as additional restoration activities. We will implement treatments through a combination of commercial timber harvest, stewardship or service contracts, and Forest Service personnel work. We will make the commercial treatment areas available to local timber industries over the next 2-5 years. Some of the additional activities could be carried out as soon as 2020 and all would be completed within 3 years of the end of commercial harvest operations.

- Commercial timber treatments across a combined total of 2,646 acres. This includes (all acreages are approximate):
- 1,843 acres of sanitation-salvage (828 acres of which may need to be planted afterwards).
- 484 acres of overstory removal.
- 217 acres of clear-cut (all of which will be planted afterwards); and
- 102 acres of shelterwood harvest.

Yellowstone to Uintas Connection participated in the public process during the Forest Service's development of the timber sale, including EA comments submitted on April 9th, 2020.

Despite the issues we raised in those comments, the Forest Service (FS) inadequately responded to our concerns in its Environmental Assessment for the Mill Park Forest Restoration Project. Y2U therefore incorporates by reference into this Objection our April 9th, 2020 comments on the project EA.

Y2U opposes the Project due to (1) its impacts to potential wilderness areas, (2) the Forest Service's failure to adhere to the constrictions of the Roadless Rule, and (3) the Forest Service's decision to advance the Project ahead of its ongoing revision to the Ashley National Forest Management Plan ("Forest Plan") in a manner that will interfere with the revision process and undermine public input. We object to the Forest Service implementing the Project and ask that the Forest Service not implement the Project until the Forest Plan revision process is complete. We also request that the agency remove any areas of the Project that are in potential wilderness and exclude any roadless areas from the Project or, at a minimum, provide sufficient information to determine whether the Project satisfies an exception to the Roadless Rule.

AS STATED IN OUR EA COMMENTS:

The Mill Park Project will impact potential wilderness units and interfere with chances for an eventual wilderness designation.

The area where the Mill Park Project is proposed would overlap with potential wilderness areas proposed by the Forest Service. Specifically, the Project area overlaps with the Lake Fork Mountain unit currently being considered for wilderness recommendation through the *Ashley National Forest Evaluation of Potential Wilderness Inventory Areas* (May 2019) as part of the ongoing Ashley National Forest, Forest Plan Revision process. Furthermore, the Project would border the High Uintas Wilderness area.

The characteristics of a wilderness area are: (1) the apparent naturalness of the lands; (2) the opportunities for solitude or primitive and unconfined recreation; (3) the presence of ecological, geological, or other features of scientific, educational, scenic, or historical value; (4) that the area has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (5) the area can be managed to preserve its wilderness characteristics (FSH 1909.12, Ch. 70, § 72.) By evaluating the Lake Fork Mountain unit, the Forest Service recognized that the unit contains the necessary wilderness characteristics of size, apparent naturalness, and outstanding opportunities for either solitude or primitive and unconfined recreation. The area contains popular trailheads and trails, including the Center Park Trailhead which is a primary access into Garfield Basin in the High Uintas Wilderness. The Lake Fork Mountain unit is also high-quality habitat for big and small game species and contains habitat for known rare plants and bird species. These are some of the reason why the area is currently under evaluation by the Forest Service for inclusion as recommended wilderness in the Forest Plan Revision.

As an evaluated potential wilderness area, the Lake Fork Mountain area could potentially be managed and designated as a permanent wilderness area. In order for that designation to occur, the Forest Service must preserve the unit's wilderness characteristics. The inclusion of portions of the Lake Fork Mountain potential recommended wilderness in this Project could have immediate and even long-term impacts to the identified wilderness characteristics of the area. The Project proposes mechanical timber treatments, including clearcutting and shelterwood harvesting, and pre-commercial thinning. Anyone that has visited areas post-clearcutting or thinning can attest to the unnatural appearance of the disturbed landscape. Importantly, areas impacted by clear-cuts and other treatments that appear unnatural are typically excluded from proposed wilderness units, leaving odd shaped exclusions completely surrounded by wilderness. There are many examples of the Forest Service using previous treatment areas as rationale for excluding an area from future considerations for wilderness recommendation, or from management to protect wilderness characteristics. For this reason, Forest Service should exclude all potential recommended wilderness, including the Lake Fork Mountain potential wilderness unit, from the area for the Mill Park Project.

In the EA, the Forest Service recognizes that the Project falls within the Lake Fork Mountain potential wilderness area, but wrongly concludes that the Project would not have any lasting effects that compromise wilderness characteristics. Instead, the EA asserts that the Project "would result in some temporary degradation to some [wilderness] attributes" but that "there would be no permanent or significant effects on any of these attributes" (EA, 16). This conclusion is not supported by the EA. A vegetation treatment project of this scale can have both short-term and long-term impacts on the resources present, including wilderness characteristics. This is especially

true in high elevation areas like the lands proposed for treatment here. There are old clear-cuts in other high elevation areas on the Ashley National Forest where the flora never returned. These include clear-cuts in the Rasmussen Lakes area of the West Fork Whiterocks drainage from 1968 and clear-cuts just north of Pole Creek Lake from 1969. In each of these examples, the effects from the treatments are still visibly noticeable.

To mitigate some of these impacts, the Forest Service should first seek to avoid impacts to wilderness characteristics to the full extent practicable, primarily by excluding the Lake Fork Mountain unit from the Project area. But if the Forest Service does proceed with this Project, it should develop and implement appropriate design features and mitigation measures specifically for lands with wilderness characteristics. These design features and mitigation measures should ensure that the wilderness characteristics present in the Project area are not degraded by the Project, and that the impacts are only temporary as envisioned by the EA.

Such design features and mitigation measures could include, but are not limited to:

- Timing limitations to prevent unnecessary conflicts with hunting season (to ensure that existing opportunities for primitive and unconfined recreation in the form of backcountry hunting opportunities are minimized).
- Prohibiting the creation or authorization of new motorized vehicle routes as a result of this Project to ensure that the naturalness of the unit is retained.
- Any vegetation treatment projects conducted in potential wilderness must not negatively affect wilderness characteristics or the visitor experience and must minimize impacts, particularly through the incorporation of techniques and type of equipment to ensure minimal impact to wilderness characteristics.

The EA should be explicit that these types of mitigation measures, and any others necessary to protect the existing wilderness characteristics and visitor experience of the area, will be incorporated into the Project. Any impacts to wilderness characteristics must only be temporary and must not prematurely foreclose on future management decisions to recommend the area as wilderness or to otherwise protect the wilderness characteristics present in the area.

The EA also notes that the Project would border the High Uintas Wilderness but would have no effects on the wilderness area because the Project is not within the wilderness area (EA, 16). This misses the point. Even though the Project may not directly impact the High Uintas Wilderness, the Project would compromise any efforts to designate a wilderness area that borders the High Uintas Wilderness. A wilderness area bordering the High Uintas would effectively create a large, intact wilderness area, benefitting landscapes and ecosystems alike. This opportunity would be much more difficult if lands bordering the High Uintas were treated under this Project.

The Mill Park Project has the potential to impact lands with wilderness characteristics and impair chances of future wilderness designations. We request that the Mill Park Project be discarded, but if not, then the Project should not occur in any potential wilderness areas or inventoried roadless areas (IRA).

The Mill Park Project presents a potential violation of the Roadless Rule.

The Mill Park Project falls within two inventoried roadless areas (IRA). Although the EA cites what it believes are applicable exceptions to the Roadless Rule, we do not agree. We believe that neither of the exceptions cited are applicable to this Project and, as such, the Project violates the Roadless Rule.

The EA identifies two exceptions to the Roadless Rule that it maintains allow for this Project. The first is an exception for removal of generally small diameter timber if the activity will maintain or improve one or more of the roadless area characteristics and is done for the purpose of maintaining or restoring the characteristics of ecosystem composition and structure (36 CFR 294.13(b)(1)(ii)). The other exception used is one for removal of timber when that removal is incidental to implementation of a management activity that is not otherwise prohibited by the Roadless Rule (36 CFR 294.13(b)(2)).

Beginning with the exception for small diameter timber, the EA invokes the exception but contains no restrictions on the size of timber that may be cut (EA, 15-16). Further, given the extensive acreage the project contains, it is necessary that the Forest Service provide data concerning the size, species, and distribution of trees likely to be removed. No such data was included in the EA and therefore the record does not support the agency's claims. It is likely that many large diameter trees would be felled considering actions like clear-cuts which are not selective. Furthermore, the EA does not specify how roadless area characteristics would be maintained or improved by the Project. The Roadless Rule defines roadless area characteristics as:

Resources or features that are often present in and characterize inventoried roadless areas, including:

- (1) High quality or undisturbed soil, water, and air;
- (2) Sources of public drinking water;
- (3) Diversity of plant and animal communities;
- (4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;
- (5) Primitive, semi-primitive nonmotorized and semi-primitive motorized classes of dispersed recreation;
- (6) Reference landscapes;
- (7) Natural appearing landscapes with high scenic quality;
- (8) Traditional cultural properties and sacred sites; and
- (9) Other locally identified unique characteristics (36 C.F.R. 294.21).

The EA mentions that roadless characteristics (1), (5), and (7) *may* be improved and that there will be no change to the other characteristics (EA, 15). This is false because virtually all of these characteristics could be harmed by logging, especially characteristics (1), (5), and (7). Vegetation removal disturbs sensitive soils and leads to increased erosion, which in turn loads waterways with sediment. The trees that will be removed act as carbon sinks and once cut down, the carbon will be released into the atmosphere, affecting air quality. Moreover, ground disturbing activities such as those advanced by the Project lead to increased fugitive emissions and dust. Roads, even temporary roads, adversely impact air and water quality and the intensive use of these roads during the Project will exacerbate these impacts, while also threatening wildlife and ecosystem values. Lastly, the character and integrity of the landscape is transformed into an unnatural area of human interference. Contrary to the Forest Service's statements, which are again unsupported by the record, the Project will harm roadless area characteristics.

The second exception used is one for removal of timber when that removal is incidental to another management activity. But this Project does not authorize the removal of timber as incidental to a different management activity. Timber management is the activity proposed and, under the Roadless Rule timber cutting, sale, and removal are prohibited. The preamble to the Roadless Rule list examples of activities not otherwise prohibited by the Roadless Rule, including trail construction or maintenance; removal of hazard trees adjacent to classified roads for public health and safety reasons; fire line construction for wildland fire suppression or control of prescribed fire; survey and maintenance of property boundaries; other authorized activities such as ski runs and utility corridors; or for road construction and reconstruction where allowed by this rule (66 Fed. Reg. 3244, 3258 (2001)). This Project does not fit in those types of activities.

We are concerned by the lack of documentation regarding the Project's purported consistency with the Roadless Rule. The Forest Service must explain in its EA how the Project will comply with the Roadless Rule's requirement that logging in roadless areas for any purpose will "be infrequent." It must also provide information explaining how the Project will comply with the exceptions to the Roadless Rule. There is no satisfactory explanation in the EA, and without one, the Project will violate the Roadless Rule.

IN ADDITION:

Commercially logging in an IRA in this case is both a violation of NEPA (not providing the public with information to make informed decisions) and NFMA (roadless rule does not allow logging within IRA).

The EA fails to provide any analysis of why logging in the IRA will “improve public safety, increase the resilience and adaptive capacity of lodgepole pine and spruce-fir stands in the project area, reduce hazardous fuel loading, and improve streams and meadows”.

The EA fails to utilize the best available science to support its conclusion that logging in the IRA will “increase the resilience and adaptive capacity of lodgepole pine and spruce-fir stands in the project area, reduce hazardous fuel loading and improve streams and meadows”. Furthermore, the conclusions are arbitrary and capricious because it is not supported by the best available science in violation of NEPA and NFMA

Additionally, the EA should consider a No Action Alternative (not exceptions) with regard to the Roadless Rule. The failure to consider this alternative is a violation of NEPA and NFMA.

The lack of information in this regard is a violation of NEPA which requires the agency take a hard look at the potential environmental effects of a project and provide the public with enough information to make an informed opinion about the project.

Remedy: Select a No Action alternative. Alternatively, the Forest Service can draft a new EA that does not include logging in the IRA or at least addresses the concerns raised above.

AS STATED IN OUR EA COMMENTS:

The Mill Park Project should not proceed until the new Ashley National Forest Management Plan is complete.

The land management plan for the Ashley National Forest is currently being revised. At the end of the revision process, an entirely new land management plan would be created to govern activities on the Ashley. As part of that revision, certain land designation decisions will be made, not least of which are designations for wilderness. This Project should not proceed because it would interfere with and influence this Forest Plan revision and designation process.

We are concerned that any wilderness inventory area that overlaps with the Project would receive a down-graded score in the wilderness evaluation in the categories of apparent naturalness and/or manageability. Regarding apparent naturalness, we are concerned that stripping the area of vegetation and leaving behind stumps, slash, and other such byproducts would impair an area’s natural appearance and therefore result in a lower wilderness evaluation score. Any lands identified in the wilderness inventory that overlap with the Project should not receive a down-graded manageability score simply because the Forest Service wants to conduct this Project prematurely.

Additionally, the Project requires an amendment to the current land management plan to allow for the Project’s proposed activities (EA, 3). It is unwise to move forward with a project that would have to first go through the lengthy process of a plan amendment. In other words, there is no point in amending the current plan when the current plan is soon to be revised. To avoid these problems, the Forest Service should halt the Mill Park Project until the new Forest Plan is complete. At that time, the Project could be reintroduced in a manner consistent with the revised Forest Plan and applicable laws.

Remedy: Select a No Action alternative. Alternatively, the Forest Service can draft a new EA that does not include logging in the IRA or at least addresses the concerns raised above.

Objection Summary

We oppose the Mill Park Project because it has the potential to significantly impair the wilderness characteristics of lands that are currently under consideration for a wilderness designation. The Project also violates the Roadless Rule based on the facts and information provided in the EA. Lastly, this Project is untimely because it is being proposed during an ongoing land management plan revision for the Ashley National Forest while at the same time proposing an amendment to the current forest plan that is soon to be replaced. The new management plan directly implicates the Project, making it unwise and premature to proceed until the new Forest Plan is finished.

Remedy: Alternatively, the Forest Service can draft a new EA that does not include logging in the IRA, fully complies with the law and addresses the concerns raised above.

Respectfully,

Jason Christensen
Director/Lead Objector
Yellowstone to Uintas Connection
435-881-6917
jason@yellowstoneuintas.org