



File Code: 1570

Date: April 29, 2015

Mr. Keith Hammer
Swan View Coalition
3165 Foothills Road
Kalispell, MT 59901

Mr. Timothy Bechtold
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Dear Sirs:

This letter is in response to both your March 5 and March 6, 2015 letters concerning the March 18, 1988 Noisy Face Recreation Management Decision.

Your letter of March 5th primarily concerned the 13 miles of road and trails in the Noisy Face Recreation Management Decision that were retained for off-road vehicle use and which the decision stated that “[r]outes will not be marked on the ground.” You informed the Forest Service that you would file a 60-day notice of intent to file suit under the Endangered Species Act “as our only remaining recourse to bring this situation into compliance with the 1988 Noisy Face Recreation Plan and Flathead Plan Amendment 19.” The next day on March 6th you sent a letter identified as a “60 Day Notice of Intent to Sue to Remedy Violations of the Endangered Species Act.” This letter was received by the U.S. Department of Agriculture on March 9, 2015.

Your March 6th notice of intent to sue contains the following claims of legal violations:

1. In failing to reinitiate formal consultation over the 1988 Noisy Face Recreation Plan in light of new best available science, the subsequent Flathead Forest Plan Amendment 19, continued violations of the Noisy Face Plan by motorized vehicles, and other changed circumstances, the Forest Service and Fish and Wildlife Service are in violation of Sections 7 and 9 of the ESA.
2. In failing to bring the Peters Ridge Grizzly Bear Management Subunit into full compliance with Flathead Forest Plan Amendment 19, the agencies are in violation of Section 7 of the ESA and Section 9 of the ESA for allowing excessive “incidental take” due to excessive motorized roads and routes and inadequate enforcement of roads and routes closed to motorized routes.
3. Should the Forest Service mark any of the retained ORV trails on the ground, it will be in violation of Sections 7 and 9 of the ESA for taking measure expressly forbidden by its own Noisy Face Decision and FWS’s Noisy Face biological opinion - measures necessary to adequately limit “incidental take” of grizzly bear and necessary to remain within the findings of biological effects in the biological opinion.
4. Moreover, the Peters Ridge/Krause Basin area is designated lynx critical habitat and the Forest Service has failed to consult regarding the impacts of the above described activities on this designated critical habitat.



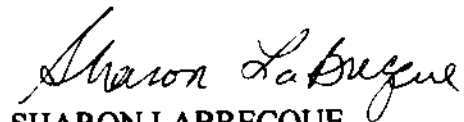
Your letter asserts that "If the violations of law described above are not cured within 60 days, Swan View intends to file suit for declaratory and injunctive relief, as well as attorney and expert witness fees and costs."

In response to letters concerning the March 18, 1988 Noisy Face Recreation Management Decision, the Flathead National Forest will not be signing or marking on the ground any of the 13 miles of ORV routes referenced in your March 5th and 6th letters. Management direction will remain consistent with the 1988 Decision and the March 14, 1988 Biological Opinion as the "routes will not be marked on the ground." The Flathead National Forest will continue travel management in the area consistent with the 1988 decision until a new decision, if any, is made to change site-specific management direction. There is currently no such proposal.

In addition, in response to your allegations of failure to comply with Endangered Species Act Sections 7 and 9 relating to the grizzly bear and lynx critical habitat, the Flathead National Forest has done an ESA analysis and review of the March 18, 1988 Noisy Face Recreation Management Decision. This analysis and review is documented in the Noisy Face Recreation Management Decision Terrestrial Biological Assessment Amendment (BA Amendment) dated April 29, 2015. The Flathead National Forest is requesting concurrence from the U.S. Fish and Wildlife Service on the Flathead National Forest's determination that reinitiation of consultation for grizzly bear is not required, decision falls within the parameters of the 2014 Amendment 19 Biological Opinion, and that 1988 Noisy Face Recreation Management Decision is "not likely to adversely affect lynx critical habitat."

I understand that Rick Kehr and Keith Hammer discussed this dispute again on April 8, 2015 and it sounded encouraging and cordial. We are willing to meet again with Keith to discuss this dispute further, if it would be helpful.

Sincerely,



SHARON LABRECQUE
Acting Forest Supervisor