January 9, 2017

Dear Mr. Ferebee,

Pursuant to 36 CFR 218, we file this Objection to the proposed decision of Arapaho and Roosevelt National Forests and Pawnee National Grassland (ARNF) Supervisor Monte Williams to approve the Forsythe II project, located within the Boulder Ranger District, as described in the Draft Decision Notice (DDN) published on December 8, 2016. With the objection period beginning on December 9, 2016, the 30th and final day was Saturday, January 7, 2017. “However, when the time period expires on a Saturday, Sunday, or a Federal holiday, the time is extended to the end of the next Federal working day…” [36 CFR 218.6]. Thus, according to the website https://www.fs.usda.gov/detail/arp/landmanagement/projects/?cid=stelprd3846763 “The release of the draft decision begins the formal 30-day objection period, which will conclude at midnight Jan. 9, 2017”. Therefore, this Objection is timely.

We describe the issues about which we object, show that we have either commented to the Forest Service previously on the issues and/or show that the issues are “new” ones that became known only after previous comment periods (which we are allowed to comment on per 36 CFR 218.8(c)), and we suggest remedies for these issues below. We note that while we had some information about some issues prior to the last period for public comment, much “new” information about some of these topics has been presented by the USFS more recently; our comments on the “new” information thus may go beyond the specific concerns we previously submitted. While we both have signed the Objection filed by Vivian Long on behalf of the Magnolia Forest Group (MFG), we are specifying our own views on issues from our personal perspectives based on our own evaluations of the DDN and accompanying Environmental Assessment (EA), only some of which have been treated in detail in the MFG Objection. On some other issues, we present succinct summaries of the vital points, while supporting details are in the MFG Objection. Thus this particular Objection complements the MFG Objection.

Notes about the Objectors:

Lead objector:          Clark R. Chapman [CRC]
Second objector:        Y Chapman (Lynda M. Chapman) [Y]
Address for both objectors: 2083 Lazy Z Road, Nederland CO  80466
Telephone for both objectors:  303-642-1913

We have lived within the Forsythe II area since 1997, have become intimately knowledgeable about the local forest (our property borders on the National Forest), were deeply involved with the Boulder Ranger District in the previous major project in this area (the Winiger Ridge Project nearly two decades ago), have assisted the Forest Service in measuring weather and wind conditions in the area prior to the 1998 prescribed burn on Winiger Ridge, and have followed the development of the Forsythe project since the beginnings of Forsythe I (despite inadequate public notification of Forsythe I). Dr. Chapman has MS and PhD degrees in meteorology and geology, respectively, from M.I.T., and he served on the Planning and Zoning Commission of Pima County, Arizona (which bears the same relationship to Tucson that Boulder County does to the City of Boulder), and was a member of the American Planning Association. Y Chapman worked with the USFS to produce a video documenting the 1998 prescribed burn on Winiger Ridge. Both of us conducted bird counts along Winiger Ridge for many years.

Introduction

The Forsythe II project represents the latest stage of a badly implemented project by the Boulder Ranger District (BRD) of the USFS that we have followed since the original Forsythe I project was initiated in 2012. It is important to be aware of the previous project, and indeed of the Winiger Ridge Project 15-20 years ago in largely the same area, because Forsythe II largely ignores vital aspects of the Winiger Ridge Project while it proposes largely the same “treatments” proposed, for totally different reasons, in the aborted Forsythe I project.

Indeed, it appears from the EA that the USFS is determined to cut about a million trees in the area roughly between Gross Reservoir and the Town of Nederland, and between Boulder and Coal Creek Canyons, no matter how the alleged purposes may change and with virtually no serious consideration of extremely abundant citizen input, which has been in almost unanimous opposition to the Forsythe plans. There have been numerous violations of National Environmental Policy Act (NEPA) requirements, both in past actions and in the current Draft Decision Notice (DNN) that we are commenting on here (detailed legal arguments may be found in Vivian Long’s MFG Objection). The “purpose” has radically changed from one dealing with a prospective pine beetle epidemic, which never reached the Forsythe area, to totally different but undemonstrated “needs”, yet the proposed treatment remains essentially the same. Despite the “Multiple Use” character of National Forests, Forsythe II not only violates the long-standing Forest Plan for fostering wildlife habitat in this area, it also continually ignores any other “use” in this special Wildland-Urban Interface (WUI) area besides harvesting trees. In response to violating its own Forest Plan and Boulder County’s Comprehensive Plan, the USFS has decided to retain its proposal to remove nearly one million trees by illegally proposing to change its ARNF Forest Plan, without a required NEPA EIS process, rather than to restructure Forsythe II to adhere to the long-standing plan (see Objection #3 below). It also illegally avoids putting Forsythe II through an EIS process by amazingly asserting that there is no scientific controversy (FONSI) concerning approaches to reducing the danger of wildfires…despite the fact that enormous evidence has been presented to the Ranger District over the last several years that their adopted “science” is disputed by many other credible scientists (see Objection #4 below).
We, and many of our neighbors and colleagues, have expressed our views on these issues at length in submitted letters, emails, comments at public “open houses”, meetings and field trips with BRD staff, and so on. We understand that, at this juncture, our views and opinions are apparently beside the point. So we concentrate in our Objection on addressing specific issues for which we believe that legal guidelines have been violated, that legitimate public opinion has been ignored, and where the expectations of a give-and-take with the public have not been met. Some of these issues we believe are or have been illegal. Some certainly have violated USFS promises. And there are many “new” issues that the USFS deliberately refused to present to the public earlier in the process, but which have just appeared for the first time (or not appeared, despite promises that they would be studied) in the December 8th publication of the DDN and EA.

Most disturbingly, we have just in the last few days become aware of an unannounced posting on the Federal Energy Regulatory Commission (FERC) Library website on 10/18/16 of a very lengthy agreement signed in September 2016 between Denver Water and the USFS stating, in part, that the 2010 277-page detailed objections by the USFS to the proposed enlargement of Gross Reservoir (Moffat Project, within the Forsythe II area) were “settled”. We had previously learned that much of the Forsythe Project has been funded by Denver Water, not by public USFS funding. We feel these actions are a conflict-of-interest, omitting the public from involvement, and tainting the true motivations for Forsythe II. We develop this case further in Objection #5 below.

**Our Previous Communications on Forsythe II and Basis for Standing**

It is a requirement of 36 CFR 218 that, apart from “new” information and issues, our objections must be based on topics we previously discussed with the USFS concerning Forsythe II. Here we list our written and emailed messages to the BRD and ARNF staff concerning Forsythe II (not including our brief messages submitted on comment cards distributed at open houses and field trips). We cite these below using [within brackets] the shorthand date-based ID’s in the left column:

- 1/19/16: Email by CRC to Reid Armstrong & Kevin Zimlinghaus re Question asked at Open House.
- 1/21/16: Email by CRC to Sylvia Clark re Question asked at Open House.
- 1/28/16: Email by CRC to Reid Armstrong re Question asked for “ballpark” not “exact” numbers.
- 1/28/16: Email by CRC to Sylvia Clark (also copied to “comments…” re Forsythe II.
- 2/8/16: Email by CRC to Reid Armstrong re untended slash piles burning and re Question.
- 2/10/16: Email by CRC to Reid Armstrong re Question (asked for “ballpark” not “exact” numbers).
- 6/23/16: Reply to Reid Armstrong re her 6/10/16 response to CRC 1/11/16 Open House Question.
- NEW: Issues wholly or partly raised only after public comment opportunities.

We point out that the communications after 1/29/16 concern a Question CRC raised during the 1/11/16 BRD Open House in Nederland, promised to be answered during the comment period, but which was not answered by the USFS until 6/10/16.
We also note, and strenuously object to, a statement made by BRD District Ranger Sylvia Clark, in a January 8, 2017, email to Yvonne Short, that “I understand ‘standing’ pertains only to the official Comment period, which we had last winter. It does not include the scoping.” This statement which Ms. Clark has made before, is false! According to 36 CFR 218.5, "opportunity for public comment on an EA includes during scoping or any other instance where the responsible official seeks public comment." We believe that the promulgation of this falsehood by the District Ranger serves to unfairly discourage citizens from commenting during the present official comment period, suggesting that they have no standing if they commented only during the scoping period. This false statement should be reason enough to invalidate continuation of this Objection process. Nevertheless, we want to make it clear that our letter submitted during the scoping process [10/3/15] was included within our later submission [1/29/16] and so is admissible even under the false interpretation of Ms. Clark.

Objection #1: Requirement to Evaluate Reasonable Alternatives Not Met

Standing: [primarily NEW]. In numerous comments at public meetings, Boulder Ranger District [BRD] staff indicated that they would evaluate alternate proposals to their “Proposed Action” only after the end of the comment period (29 January 2016) during preparation of the Environmental Assessment [EA]. Thus the issues of whether the Alternatives that were analyzed were true alternatives and the failure to consider true alternatives such as some of those just “considered but not analyzed in detail” appeared only in the Draft Decision Notice (DDN) and more extensively in the EA and thus are “new”. We previously suggested features of reasonable alternatives emphasizing non-silvicultural issues, and we referenced the proposed alternative of the Magnolia Forest Group, in our previous communications [10/3/15 toward the end; 1/28/16; 1/29/16].

According to the applicable law, HFRA 104 (c) and (d) [Healthy Forests Restoration Act], at least one Alternative must be analyzed besides the Proposed Action. The Forsythe II DDN and EA fail to do that. The four “alternatives” analyzed are virtually identical and, despite minor differences, do not meet the requirement to analyze at least one true alternative presented to the BRD, in particular, we suggest, the Alternative submitted by the Magnolia Forest Group (MFG). As indicated in Table 2 of the EA, the four “alternatives” are defined and distinguished solely by silvicultural “treatments”. It is apparent that all the numbers in the table are similar for all four “alternatives.” These minor tweaks are insufficient to distinguish these “alternatives” as true alternatives. Moreover, true alternative approaches to meeting the needs and purposes of Forsythe II, including measures to decrease wildfire risk on USFS lands (e.g. by monitoring illegal campfires and shooting at trees, monitoring prescribed burns and slash-pile burning more effectively, more diligent monitoring for early indications of a wildfire) are nowhere analyzed, as can be seen in Tables 3 and 4, which fail to even have a section on social issues (which were promised in the Dec. 2015 Proposed Action to be studied, included in the EA, and used in developing alternatives [see our comment in 1/29/16; also Objection #6 below]). The ignored social issues are obviously central to a project in the WUI where there are hundreds of homes, many visitors from cities in the plains, and runners from around the world. The recent Cold Springs fire was started by campers from Arkansas. Table 4’s extremely brief entry regarding “Recreation/Trails” is a joke, disregarding the numerous issues relevant to wildfire risk, healthy forests, viewsheds, and other factors central to recreation. Despite looking “fat”, the section of Table 4 on “Terrestrial Wildlife” contains the same words in every block of text
for each of the four “alternatives,” demonstrating minimal distinction between the “alternatives.”

On the other hand, a serious Alternative was presented by the MFG that minimizes unwanted forest “treatments” but emphasizes other approaches to meeting the needs of forest health and maintenance. It includes monitoring of affected wildlife, monitoring and regulation of human activities that increase wildfire risk, emphasis on periodic treatments to minimize ground cover and ladder fuels, and other activities that would be totally compatible with USFS management of its lands and address the main Objective of Forsythe II. Other elements of the MFG Alternative address other Objectives of Forsythe II, as a detailed analysis of the plan would have revealed. Yet the Alternative was not even analyzed in detail in the EA. Instead, for example, it is summarily asserted – without explanation – that some of these elements “are beyond the scope of the project.” That would be true only if the scope of the project, evidently narrowed to tree-cutting only, was preordained before analysis of true alternatives. We object to the Forsythe II “Decision” because it and the associated EA illegally analyze what is substantively only a single “alternative” (a variation of the Proposed Action, which itself was very similar to the Forsythe I proposal and partial implementation based on a totally different assessment of need) and it fails to analyze a true alternative that was presented by the MFG.

Suggested remedies: The only legal remedy is to amend the Decision after a detailed analysis of a true Alternative to the Proposed Action. We suggest that a good true Alternative to analyze in detail is the one proposed by the MFG.

Objection #2: Inadequate Demonstration of “Need” for the Objectives

Standing: [1/29/16; 1/28/16; 10/3/15]. Also, there are some new [NEW] specifics in the EA, which hadn’t been written by the end of the last comment period, concerning the Purpose, Needs, and Objectives of this Project.

The Purpose and Need for the Project, and relationship to four identified Objectives, are addressed in Sect. 1.3 of the EA. Needless to say, logically the Purpose and Objectives of the Project should follow from demonstrated “Needs”. We assert that this Project follows not from well-considered demonstration of “needs” but rather from bureaucratic inertia and momentum entrenched from earlier years in developing and implementing Forsythe I, which was based on entirely different “needs”.

The Background section of the current DDN states that the primary concerns of neighborhood residents about Forsythe I dealt with discrepancies between existing and mapped vegetation. While this was one of many concerns, the major concern (in documents we and others submitted to the BRD at the time) was that the major “need” identified to reduce wildfire danger (“…manage increasing populations of mountain pine beetle (MPB)” vanished by the time implementation of Forsythe I began. The USFS’s own maps of MPB infestation showed that it mainly never reached the Forsythe area and had virtually stopped in areas to the west. Yet, despite the major purpose of the project disappearing, the BRD persisted in developing Forsythe II (of course without mentioning MPB) with largely the same “treatments” of most of the same units in the Forsythe area. This suggests that the cart has been put before the horse, and the basic nature of the tree-cutting project was preordained, and so justifications have been invented to support the ongoing juggernaut.
The commentary on the Objectives in the EA put forth desired outcomes but does a very poor job of demonstrating true “need”. Note that the definition of “need” is: “a requirement, necessary duty, or obligation” (dictionary.com); needs cannot just be asserted but must be objectively demonstrated, which is not done in the Forsythe II EA. In 2015, the previous Forsythe proposals erred badly in proposing treatments based on the supposition that the Forsythe area forests were “lower montane.” But, in fact, nearly all of the proposed treatments are in “upper montane” forests, where fire behavior and mitigation requirements are very different. (Evidently the USFS was confused by a Boulder County plan for a “Forsythe” area closer to the city and at lower elevations with lower montane forests, but which is largely different from the “Forsythe area” mapped for Forsythe II.) The current EA has now corrected its discussion to admit that it is dealing with “upper montane” forests and it correctly describes some attributes of wildfires in upper montane areas. *But the proposed treatments have hardly changed at all!* This demonstrates, once again, that the true purpose of Forsythe II is to cut about a million trees, as has been the “prescription” since Forsythe I, independent of objective facts about “need”.

So what is the need? As the EA states on pg. 11, the Forsythe area has not had a major wildfire in more than a century, so one might conclude that there is no imminent “need” to increase efforts to prevent destructive fires, though certainly local residents would regard effective measures as highly desirable. There is a discussion in the EA about more open landscapes in past history, but the major change to a more forested condition has been from a largely denuded landscape in the late 1800s when forests were severely cut down to construct buildings and to facilitate mining operations. During more recent history, there is little evidence that the Forsythe area forests, with their existing variegation in tree and plant species and numerous meadows, vary much from natural forest conditions. Perhaps the major changes in the last couple of decades have been (a) the increased clearing of trees around homes on private lands within the Forsythe area as residents respond to encouragement from public officials to perform wildfire mitigation on their own properties and (b) previous “treatments” by the USFS.

It is widely accepted that firewise practices within 100 feet of homes is overwhelmingly the best protection against property damage by wildfires. The Forsythe II Project does list as one of its four Objectives providing property owners with the opportunity to do mitigation on adjacent USFS lands out to 300 feet from their homes. While we applaud this desirable objective of Forsythe II, the real “need” for defensible space is within 100 feet of homes, and actions taken between 100 to 300 feet are merely “desirable” and not a legitimate “need”. Indeed, the fact that full implementation of this Objective concerning defensible space would theoretically involve only about 200 acres of USFS lands according to the EA, if every qualifying landowner chose to undertake such mitigation generally hundreds of feet from their houses. Realistically, that is a tiny percentage of the Project area and does not merit the prominence of being one of four main Objectives and hardly qualifies as a strong “need”.

In the EA’s analysis of Objective 1, it suggests that there is a developing need for mitigation because of population growth in the area. It quotes a 38% increase in the population of the Town of Nederland since 1990, which is actually rather slow growth for suburbs and exurbs in the West. But almost all units to be “treated” under Forsythe II, and homes of private residents interlaced between
USFS and Open Space lands, lie outside the boundaries of the town. Nearly all of Forsythe II lies in unincorporated Boulder County (or, for a small fraction, in unincorporated Gilpin County). And population growth in this area has been very little at all. Because most of the private lands within the Forsythe area were already built prior to 1990, and Boulder County requires that new houses can be built only on very large parcels tens of acres in area, the population living within the Forsythe II area has been virtually stable, not growing. The EA states that “it can be assumed that there has been a substantial increase [in population] in the areas outside of the town limits, as well.” Well, the EA’s “assumption” is simply false. No doubt recreational use by outsiders has increased somewhat, as plains cities have grown more rapidly, but the view that pervades the EA that human uses have qualitatively changed impact on these forests has no objective basis. In fact, as is evident to anyone who has lived in the area for a couple of decades, the major changes to the forest have been due to previous experimentation in silviculture, chiefly by the USFS.

In short, there is no demonstration in the EA that broad landscape “treatments” of these forests are “needed”. What is really needed are continuing activities of private citizens, through efforts like Wildfire Partners, to develop defensible space around their homes on their own property. Secondary needs on USFS lands are to regulate and monitor human activities, given that 70% of fires in the area have been human-caused, according to the EA. The Purpose of the Project appears preordained for bureaucratic reasons and the stated “needs” are merely “desires,” at best, and flow from the true goal, which is simply to harvest about a million trees. This violates the intent of NEPA regulations, which are incorporated into HFRA.

**Suggested remedies:** We suggest that the EA be restructured, with the Objectives following from demonstrated Needs, rather than having the goal of harvesting about a million trees force the desires of some BRD staff to be described as actual needs. We have also commented on some errors in the analyses, e.g. concerning population increases that haven’t happened. These mistaken analyses should be redone.

**Objection #3: Changing the Forest Plan to Enable Forsythe II is “Not Significant”???

**Standing:** [1/29/16, 1/28/16, 10/3/15, and NEW]. The topic of incompatibility of Forsythe II with the existing ARNF Forest Plan has been a major topic of our previous communications with the USFS. What is “new” is that they now announce in the DDN that instead of modifying Forsythe II to be compatible with the Plan, they propose to modify the Plan to be consistent with their Proposed Action (Decision).

We will not belabor our earlier arguments [1/29/16, 10/3/15] that the previously Proposed Action (and it is true of the current Decision) is starkly incompatible with the current ARNF Forest Plan. The 1997 Plan, which remains in effect today, and preceding policies have always maintained that the highest purpose for land management in regions surrounding and west of Gross Reservoir (including most of Forsythe II) is to provide effective habitat for fauna and flora. The habitat not only is crucial to the long-standing migration corridor of the Winiger Ridge elk herd, but it has been attracting moose into the area during the past three years. In particular, for the Thorodin and Lump Gulch regions within Forsythe II, the overall “Theme” of the Forest Plan is prescription 3.5 (“Forested Flora or Fauna Habitats--Limited Management”), which talks about "providing for" and
"protecting" wildlife. Massive tree-cutting in these areas is not “limited management” and thus clearly violates the Plan.

Belatedly, after repeatedly arguing that Forsythe II is compatible with the Plan, it seems that the USFS now recognizes that it is obviously not compatible. Naturally, the responsible thing to do is greatly reduce the tree-cutting so that it is compatible. But, surprise: the Decision, without any prior public hearings or discussion, proposes to modify the Plan so that they can proceed with the proposed massive tree cutting. Under “Forest Plan Amendments” in the DDN, it is stated that the Plan will remove the requirements “to retain the integrity of effective habitat areas” and “to maintain or increase habitat effectiveness.” These actions are apparently intended to gut the central Theme for these USFS lands.

Amazingly and illogically the DDN goes on to declare these Plan amendments to be “non-significant”. This is nonsense. Of course, there is a purpose behind this statement. If the amendments were regarded as “significant”, a new EIS process would be required to amend the Forest Plan. Or Forsythe II would have to be sharply curtailed to be compatible with the existing Plan.

It is obvious that the amendments are “significant.” They would undercut the basis for the existing “Minimal Treatment” requirements of prescription 3.5, applicable to much of the Forsythe II area. According to Forest Service Manual 1920 (FSM), Sections 1926.51 and 1926.52, actions that are not significant must not significantly “alter the multiple use goals and objectives for long-term land and resource management.” Clearly, the proposed amendments would dramatically alter the longstanding objectives for management of the affected lands. The other three criteria in the FSM for “not significant” changes to Forest Plans clearly don’t apply to this case.

1926.52 discusses “significant” changes as affecting the entire plan or a “large portion” of it. While it is true that the Forsythe II area is a modest fraction of the entire ARNF, this change would vitally affect the Plan as a whole, which was conceived of as an integrated amalgamation of many different uses in different areas throughout the entire ARNF. While effective habitat for fauna is emphasized in the Forsythe II area, the Plan provides for recreation as a major focus for West Magnolia, and there are different prescriptions for different areas throughout the ARNF. It is vital for “Multiple Uses” that there be regions where habitat effectiveness is the primary theme. To remove that theme from Forsythe II regions would undermine the structure of the entire Plan. One might suggest, well, let’s trade the 3.5 designation for these lands and apply the designation somewhere else in the ARNF. But that can’t happen. Fostered by decades of managing these lands for habitat, the Winiger Ridge elk herd has long established behaviors in their migration along this officially mapped migration route. The herd will not move to a different part of the ARNF because human beings have changed the map; instead the herd will greatly suffer, as just one example. Any change as dramatic as the amendments proposed would undercut the integrity of the entire Forest Plan. As such, it is legally required that the amendments be proposed through a full, open EIS process, rather than being sneaked into two paragraphs on pg. 8 of the DDN and declared to be “non-significant”.
**Suggested Remedies:** We suggest that the massive tree-cutting approach, which is incompatible with the Forest Plan, be drastically reduced so that the Project clearly maintains and fosters effective habitat for the amazing variety of fauna that exists in the area. The only legal alternative remedy would be for the USFS to undertake a full EIS process to update and appropriately modify the Forest Plan; we don’t believe that is necessary or desirable for this part of the ARNF, despite the two decades since the Plan was developed, but it is the only legal recourse open to the USFS.

**Objection #4: No Scientific Controversy about Wildfires? Wrong! And Other FONSI Issues**

**Standing:** [1/29/16, 1/28/16, 10/3/15]. Also [NEW] because arguments are made in the FONSI section of the DDN not previously presented to the public.

Beginning with meetings in mid-2014 (e.g. on August 21, 2014) in the BRD offices, we and other citizens presented the BRD with extensive scientific literature that argues that the treatments being conducted under Forsythe I were inappropriate, including some that would actually enhance the spread of wildfire. Presenting the USFS with scientific evidence that opposes many Forsythe II treatments has been a major, continuing activity of the MFG. Numerous technical reports and papers published in peer-reviewed journals have been submitted to the USFS that are part of the record of Forsythe II.

The BRD has countered with publications (chiefly dating from more than a decade ago), and arguments at public meetings, that their proposed treatments have a scientific basis. While we believe that the preponderance of scientific evidence is against Forsythe II measures, it is legitimate to say that not all of the matters are settled and that scientific controversy exists. As a practicing scientist, CRC is well aware of the nature of scientific controversies.

Despite the extensive discussion of these scientific disputes with BRD staff, the DDN states (pp. 14-16) in its section of “Finding of No Significant Impact (FONSI)” that the effects on the quality of the human environment are not likely to be highly controversial. As criterion #4 explains, the issue concerns scientific controversy, not public disagreements. The DDN goes on to say that “generally the scientific community agrees…” that it is good to reduce hazardous fuels and create defensible space around structures. We agree with that. And the DDN says that it is also good to do “fuel reduction treatments on a landscape scale.” Maybe that is good and maybe not, depending on the specific types of treatments. That is where the controversy exists: many of the specific treatments proposed by Forsythe II may actually be bad, and increase the spread of wildfire. But despite the evasive language, the DDN is asserting that substantial scientific controversy does not exist, which is false.

This is not a minor point. If there is scientific controversy, then there is “significant impact” and therefore the Forsythe II project legally must go through a more extensive and open public process. In discussions CRC had with District Ranger Sylvia Clark at the December 13, 2016, BRD Open House on the Forsythe II Project, it became clear that she did not understand the critical nature of the issue. Indeed, she admitted that there was much scientific controversy, but asserted that the science the USFS relied upon was good and that their technical staff disagreed with the opposing conclusions.
CRC tried to point out to her that the FONSI issue wasn’t concerned with which scientific judgment was better, but only with whether or not there was controversy. But she just didn’t seem to “get it”. The fact is that there is overwhelming scientific controversy concerning the methodologies proposed in Forsythe II, so the Plan must go through a full EIS process.

While we have highlighted the issue of scientific controversy (#4 of ten factors discussed in the FONSI section of the DDN), we believe that some of the other intensity factors are also mistaken by being termed “not significant”.

* Factor #1 concerns whether there are significant beneficial or adverse impacts of the Plan; much of the discussion concerns the reduction of effective habitat and the implicit conclusion is that while there would be reduced habitat, it is insignificant. We strongly disagree with such a conclusion, as we discussed in detail in Objection #3.

* The DDN’s discussion of Factor #2 asserts that the proposed section would not significantly affect public health and safety. While our views on this factor differ from the views of the USFS, it is logically ridiculous to say that meeting the first Objective of Forsythe II (reducing the severity and intensity of a wildfire in the WUI) will “not” significantly affect public health and safety. If it won’t, then the need for the first Objective will not be met. The FONSI statement on this issue is thus illogical and untenable.

* Factor #5 involves effects that are highly uncertain, or that involve unique or unknown risks. The DDN argues this factor is not significant because the proposed treatments in Forsythe II are commonly implemented on USFS lands. But there is one essentially unique and extremely important attribute of these lands (and some others on the east faces of the Front Range in Larimer, Boulder, and Jefferson Counties) affecting wildfire risks (Objective #1): these canyons have some of the highest peak winds of anywhere in the United States. Forsythe II lies precisely in an area, extending from Caribou down to Rocky Flats, which frequently has extreme winds. As we finish writing this document on January 9, 2017, the Nederland to Rocky Flats area (including Forsythe II) is under a High Wind Warning from the National Weather Service for wind gusts of 75 to 90 miles per hour. Such winds are difficult to predict, are highly erratic, and are wholly unlike weather experienced on nearly all other USFS lands. The 2010 Fourmile Canyon fire several miles north of Forsythe II started on such a very windy day. Thus we disagree that the Plan involves no significant uncertain or unique risks. The Plan would benefit from the more detailed analyses of such issues during a full-up EIS process.

* Factor #7 regards the impact of the Project as part of a larger cumulative impact on the area. It is ridiculous to claim, as in the DDN, that even the Forsythe II Project doesn’t have a major impact. But when viewed in the context of the massive proposed five-year Moffat Project of Denver Water to raise the dam and significantly enlarge Gross Reservoir (part of which is within the Forsythe II boundary), it is obvious that the combined prospective cumulative impact on the region would be totally enormous, and obviously “significant”, especially given the comparatively minimal changes in the Forsythe II landscape over the last several decades. (The Moffat Project is mentioned in Forsythe Project documents [e.g. EA pg. 70 and pg. 158] as a relevant forthcoming project.) See related comments in Objection #5.

* Factor #10. The DDN claims that no federal, state, or local laws or requirements are violated by the Plan, and refers to Sect. 1.6 of the EA. But the EA treats only federal laws. There is no demonstration that local or state requirements are not violated, such as violations of noise ordinances, incompatibility with the Boulder County Comprehensive Plan, etc.. We expect that these and other
relevant laws would be violated by Forsythe II without modification of the Plan or stipulations to monitor activities.

Thus it appears that six of the ten factors for determining significance have either not been properly analyzed or else are clearly “significant” impacts. Therefore the FONSI declaration is erroneous.

**Suggested Remedies:** The false statements about “no significant impact” on so many relevant criteria, especially concerning scientific controversy, leaves only a single remedy open to the USFS. That is to evaluate the Forsythe II Project through a full EIS process.

**Objection #5: Biases Due to Secret Collusion Between Denver Water and the USFS**

**Standing:** [10/3/15, NEW]. We learned that Denver Water was paying for much of the Forsythe Project only shortly before our 10/3/15 letter to the USFS near the end of the scoping process. But much more has taken place behind closed doors, not visible to the public, since then. We learned of the recently signed agreement between Denver Water and the USFS, which – among other things – agrees to withdraw objections to Denver Water’s Moffat Project to greatly expand Gross Reservoir, only a few days ago, so much about this topic is new [NEW] or still to be learned.

We find it to be extremely disturbing that the USFS has caved on their extremely serious and detailed objections to Moffat, despite minimal changes in the Moffat proposal from the 2010 Draft EIS to the 2014 Final EIS. In the intervening time, Denver Water has funded most of the Forsythe I project and is contracted to fund Forsythe II through much of this year, representing a clear, and apparently successful, “bribe” to get the USFS to withdraw its objections to Denver Water’s Moffat Project. (This approach by Denver Water to pay millions of dollars to public entities to get them to sidestep their democratic responsibilities to their constituents has been successful in some cases – especially counties on the Western Slope – and unsuccessful in others, like an analogous attempt to influence the Boulder County Commissioners several years ago.) Though it may be strictly legal for one governmental entity to sign a virtually secret deal with another, with no announcement to the public, and in opposition to the overwhelming opposition of the public to both Projects, it doesn’t pass the “smell test.” We consider this “deal” to have corroded the objectivity of the USFS concerning its Forsythe II proposal and consider it sufficient basis to reject it, or at least require a full EIS.

Never, in all of our discussions with USFS staff concerning the Forsythe Project through early autumn 2015, has there been mention of the deep connection with Denver Water. Indeed, the major environmental issue confronting the foothills residents west of Boulder during the past 14 years has been the Moffat Project, which threatens to destroy the peaceful ambience of the lands in which these people live, including filling roads (like Coal Creek Canyon) with logging trucks going one way and trucking up sand and construction materials in the opposite direction. Citizens were aghast when it was estimated that 40,000 trees would have to be cut down around the periphery of the reservoir; Denver Water’s contractors later revised that estimate to about 200,000 trees. A major objection to the Moffat Project by local residents has been its obvious violation of the ARNF Forest Plan in the vicinity.

Now it appears that in March 2016, a Denver Water official sent a letter endorsing the Forsythe II
Project and in September 2016 Denver Water and the USFS signed the agreement by which, in part, the USFS withdraws its objections to Moffat. There is no publicly known substantive basis for the USFS to withdraw its objections to the Moffat 2010 Draft EIS since only minimal changes at most were made in the 2014 Final EIS; undoubtedly many of the scientific and other objective problems raised by the USFS remain (unless there have been changes made outside of public view). It would appear that the funding by Denver Water of upwards of $4 million for local USFS projects including Forsythe was the result of a negotiated deal from which the public was excluded. Funding of such magnitude must necessarily influence USFS staff concerning its plans and implementation of Forsythe (e.g. without such funding, the scope of the Project would necessarily be reduced). Such inevitable reasons for bias were withheld from the public, so far as we know. We are aware of no public discussion or documents (up through and including the current bulky 227-pg. EA) in which these potential sources of bias were ever discussed; indeed, nowhere does the EA acknowledge the role of Denver Water in funding the Project. Nor has Denver Water publicly announced its financial support of Forsythe. Citizens have learned of this collusion only through documents obtained through the Colorado equivalent of FOIA.

The interaction between Moffat and Forsythe II is fundamental. For example, if the supposedly “not significant” amendments to the ARNF Forest Plan, proposed in Forsythe II, were to be made, they would remove a major incompatibility with the Moffat Project. That such interplay between the two Projects has been and remains totally absent from USFS communications with the public demonstrates a horrifying lack of transparency, incompatible with the standards for a NEPA process. Even when CRC directly asked District Ranger Sylvia Clark (at the December 2016 Open House) about Denver Water payments and any influence on the USFS’s position concerning the Moffat Project, she answered that she didn’t know how much Denver Water had paid to fund Forsythe or what elements of the Project had been funded in this way. She also seemed barely aware of the Moffat Project but asserted that there was no connection between the two Projects. That is clearly an example of a continuing attempt to deceive the public since, obviously, there is – at a minimum – a connection due to the fact that some of the trees that would necessarily have to be cut to enable the Reservoir expansion either have been, or are slated to be, cut during the Forsythe Project.

Suggested Remedies: The public involvement required by NEPA has been corrupted by this secret deal. So the remedy should be to start the process over (or another process, like a full EIS) with full public disclosure of important elements of the Project, such as the funding relationship with Denver Water and associated impacts on the cumulative effects of the Project and the Moffat Project.

Objection #6: Despite Promises, there is No Significant Assessment of Social Impacts

Standing: [1/29/16, 10/2/15, NEW]. Although we extensively discussed social impacts in our formal correspondence, the USFS continually told us that they would be dealt with after the last comment period during the Environmental Assessment. Since the EA wasn’t published until December 2016, its discussion of these issues – mainly a lack of relevant discussion – is new [NEW].

Our view has been that it is essential, in developing a project in the WUI, where many people live and recreate, to assess the concerns of the many people who live near or otherwise use these forest lands, and develop a Project based on those concerns. It might be appropriate to begin with silvicultura
issues on some distant part of the ARNF, which is of little value to ordinary citizens but may be advantageous for wood-cutting…but not in the WUI. Unfortunately, despite our continuing emphasis on this point from 2014 to the present, the BRD staff refused to consider the vital social issues during the entire public involvement period. However, as we reported [1/29/16], we were continually assured that social impacts would be analyzed in the EA and “used to develop alternatives to this proposed action.” That was a promise not kept. Section 1.7.4.8 on “Social Concerns” discusses some social concerns, but never even pretends to use them in the development of either the Proposed Action or the slightly different “alternatives”, whose differences are mainly silvicultural. The Section does summarize at length some of the social issues raised in public comments. But there is zero actual analysis of the issues. There are social science experts as close as at the University of Colorado Boulder who could have provided appropriate methodology for analyzing social issues, but they were apparently not consulted and would surely not give a passing grade to this incompetent analysis of social issues. Only a single social science paper is cited (Toman et al. 2013). Beyond the failure to analyze social issues, as promised, the EA doesn’t even pretend to use any analysis of social issues in developing the Forsythe II Plan and alleged “alternatives”. Thus the promises made in 2015 and 2016 were totally broken by the USFS.

The USFS itself has very extensive guidelines about Social Impact Analysis (SIA), but a simple glance at these resources suggest that they were never followed in the slightest in the preparation of Section 1.7.4.9. One resource is at https://www.fs.fed.us/dirindexhome/fsh/1909.17/1909.17,30-34.txt, which is a guide to SIA for USFS personnel. The requirement for SIA are in 36 CFR 219.5 and the requirement that the Interdisciplinary Team preparing an EA includes knowledge of the social sciences is in Forest Service Manual 1926.04b. Failure to analyze social concerns competently in the Forsythe II EA thus violates NEPA requirements.

We and other citizens with standing in this process have commented at length on the specific social impacts in the WUI pertinent to Forsythe II and we will not repeat them here. Suffice it to say that the rambling discussion of some of these issues in the EA are wholly inadequate. For instance, the EA states, “Social values and concerns are broad and complex enough that they do not constitute a single issue that can be easily addressed.” But NEPA requires that they be addressed and the local citizens were promised that they would serve in the development of alternatives to the Proposed Action. The MFG Alternative is partly developed from an understanding of these issues, but this Decision is not.

Suggested Remedies: Analyze and select the MFG Alternative, which is partly based on social issues relevant to a Project in the WUI.

Objection #7: Temporary Roads Not Mapped and Treatment Plans for Parcels not Specified for Public Comment

Standing: [1/29/16, NEW]. We commented that a map of roads (temporary roads to be built, roads to be decommissioned, etc.) was belatedly presented to the public mid-way through the comment period in January 2016, that it contained errors, and omitted important features. What is new [NEW] is the publication of a new map of roads on December 8, 2016. Also new is publication, in the EA,
of Tables demonstrating that treatments for each of 107 units have not yet been specified, thus denying the public opportunities to comment.

The new map of roads published along with the DDN and EA has numerous errors. But a major failure is that it does not show any of the several miles of new, temporary roads that would be built during the Project. Since any such roads might dissect fauna habitat, diminish viewsheds and tranquility of homeowners near such roads, and history suggests that such roads will not be “temporary” but are likely to be visible scars for decades, it is important that the public be able to comment on them. While exact locations for all such roads cannot be established until planning for treatment of individual parcels commences, it is surely possible – if for no other reason than determination of the approximate cumulative length of such roads, said to be 7 miles – to show some likely locations for the roads. But the map doesn’t show them so the public has had no opportunity to comment. This is another example of the lack of transparency that has pervaded the Forsythe II process. CRC pressed on this issue at the December Open House with several ARNF and BRD staff, but all they could say is that the locations of such roads was unknown. This is not satisfactory. If the planning of Forsythe II is so incomplete before the end of the opportunity for the public to comment, then publication of the Plan is premature.

There are many other aspects of the process that also hide issues important to citizens behind a promise that they will be developed in the future. For example, in Table 35 of the EA, for almost every one of the 107 units to be “treated”, only two wordings are included in every box under the category of Slash Treatment: “Pile & burn and/or chip and/or masticate and/or remove off-site” or “chip and/or pile & burn”. How vague! There is no site or treatment specificity, so there is no opportunity for someone, for example, who lives downwind from a particular unit to know how the USFS plans to deal with slash from that unit and be able to comment on it. Similarly, for the vast majority of the 107 units, the Treatment Method is described with the same words: “Mechanical/Manual.” Well, it makes a big difference whether the generally unacceptable “mechanical” is implemented or whether less invasive “manual” approaches are used. But the public cannot comment on the impacts of a particular treatment on a particular unit because the USFS has not yet specified what will be done. CRC discussed with Reid Armstrong at the December 2016 Open House possibilities that residents near a particular unit could be consulted about their advice and concerns as the work orders were being drawn up, but she indicated that it would be highly impractical to receive such public input at such times. Thus the public has been denied the opportunity to comment on such essential features of the Plan that would be important to them, because the Plan was published and the comment period began before the USFS had completed its specific analyses of how it would treat the 107 individual units…thus the impacts of the treatments are unknown until the bulldozers or whatever arrive and start cutting.

Suggested Remedies: Reopen the development of Forsythe II, perform the detailed analyses of prospective temporary roads and of “treatment” methods for individual units, and reopen the opportunity for public scrutiny and comment.

Objection #8: Procedural Failures Concerning Public Involvement

Standing: [1/29/16, 1/28/16, 2/8/16, 2/10/16, 6/23/16, NEW]. Some of the issues we discuss have
happened since 1/29/16 so are new [NEW]. Emails cited after 1/29/16 pertain to failure to provide a promised answer to a Question asked on 1/11/16 during the comment period.

With few exceptions, the BRD has apparently attempted to do the bare minimal requirements to facilitate public involvement. If the rules say that there shall be one public meeting during the comment period, then it holds just one such meeting. But in several ways, the development and presentation of Forsythe II has not even met the minimal requirements.

We pointed out [1/29/16] that several of the documents defining the Proposed Action were not published when many of them were, during the 2015 Christmas/New Year’s holidays, but were made available only on the day of the public meeting, January 11th, 2016. These included the road map and the set of public comments and responses. Because of this delay, the law requires that the comment period be extended to the full 30 days from January 11th, at least for comments relevant to those materials. This was not done, thus violates the rules.

At the January 11, 2016, Open House, BRD officials assured the public that all of their written questions plus those verbal questions written down on the board by the facilitator would be answered prior to the comment deadline of 1/29/16. This promise was flagrantly unfulfilled. Let us cite one example. Despite several attempts (via telephone and email) to obtain an answer, a simple question that CRC asked during the January 11th Open House remained unanswered until CRC received an email from Reid Armstrong on 6/10/16. The Question was very important and should have been very simple for staff to answer. It was: “What is the ballpark fraction of trees on USFS lands in the Forsythe II area that will be cut?” In later communications, both District Ranger Sylvia Clark and Reid Armstrong said that they could not yet provide an “exact number” of trees to be cut. CRC had to remind them, as he did several times during the Q&A session on January 11th, that he wanted only an approximate “ballpark” estimate. Clearly, if the preparers of the Forsythe II plan had any broad conception of the nature and impact of the Project on the landscape and on the neighborhoods, they would know roughly what fraction of trees would be cut and would not have to take hours (or months) to calculate it. We consider this to be a calculated attempt to keep the citizens in the dark about a fundamental aspect of the Project.

As stated early in this letter, District Ranger Sylvia Clark has repeatedly misled citizens about the rules for commenting on the Forsythe Project. As recently as yesterday, January 8, 2017, she wrote to a resident that comments submitted during scoping do not provide standing for citizens to comment at this time. That is totally false, since the regulations specifically state that comments made during scoping do apply. During the last several years, during both Forsythe I and Forsythe II, there have been many similar instances where BRD officials misstated rules about public comment.

**Suggested Remedies:** The appropriate remedies would have been (or would be) to delay comment deadlines to meet the intent of the law, to have met the promise to answer questions before the end of the comment period, and/or to delay today’s current deadline until Ms. Clark can correct her misstatements and allow those persons who concluded that they weren’t qualified to comment.
Conclusion

This letter, and the eight specific Objections discussed above, do not address all of the problems that we have identified concerning the DDN and EA for the Forsythe Project, but the problems we discuss are among the most important ones. Most of our Objections suggest that the only reasonable remedy is to reopen the Forsythe II Project and put it through the full EIS process that seems to be legally mandated. We trust that our Objections and those submitted by the Magnolia Forest Group and others will be treated seriously for citizen participation is vital to a NEPA process. Thank you.

Yours truly,

s/Clark R. Chapman
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