

# **Draft Record of Decision**

## **Bog Creek Road Project**



**U.S. Customs and  
Border Protection**

**U.S. Department of Homeland Security  
U.S. Customs and Border Protection**

February 2019



# **Bog Creek Road Project**

## **Draft Record of Decision**

Agency Information:

U.S. Department of Homeland Security  
U.S. Customs and Border Protection

CBP Responsible Official:

Karl H. Calvo  
Assistant Commissioner  
Office of Facilities and Asset Management  
Office of Enterprise Services  
U.S. Customs and Border Protection

For Information, Contact:

Joseph Zidron  
Real Estate and Environmental  
Branch Chief  
Border Patrol and Air and Marine  
Program Management Office  
U.S. Customs and Border Protection  
24000 Avila Road, Room 5020  
Laguna Niguel, California 92677  
(949) 643-6392

*This page intentionally left blank.*

# Contents

- 1 Background .....1**
- 2 Alternatives Considered .....2**
  - 2.1 No-Action Alternative (Alternative 1) .....2
  - 2.2 Proposed Action (Alternative 2) .....2
  - 2.3 Alternative 3 – Modified Proposed Action (Preferred Alternative/  
Environmentally Preferable Alternative) .....5
  - 2.4 Alternative 4 – Blue-Grass BMU West–East Open Access .....6
  - 2.5 Alternative 4 Modified .....6
  - 2.6 Alternatives Not Considered in Detail .....6
- 3 Decision Framework .....7**
  - 3.1 Joint Process .....7
- 4 Description of the CBP Decision.....7**
  - 4.1 Selection of Alternative 3 (Modified Proposed Action) .....7
  - 4.2 Modifications Included in the Selected Alternative .....8
  - 4.3 Mitigation .....8
  - 4.4 Monitoring Activities.....9
- 5 Decision Rationale.....10**
  - 5.1 Effectiveness in Meeting CBP’s Underlying Need .....10
  - 5.2 Environmentally Preferred Alternative .....12
  - 5.3 Findings Required by Other Laws, Regulations, and Policy.....16
- 6 Implementation .....18**
- 7 Contact Information .....19**

*This page intentionally left blank.*

# 1 BACKGROUND

The United States (U.S.) Department of Homeland Security, Customs and Border Protection (CBP) and the U.S. Department of Agriculture, U.S. Forest Service (Forest Service) are proposing a road repair, maintenance, and motorized closure project in the Continental Mountain area of the Idaho Panhandle National Forests (IPNF) within the Bonners Ferry and Priest Lake Ranger Districts. The project has two objectives: 1) to provide improved east–west access across the Selkirk Mountains on National Forest System (NFS) lands to enable CBP to execute its statutory mission to protect the U.S. northern border and for the safety of CBP and other law enforcement officers while carrying out their duties; and 2) to meet grizzly bear motorized access standards within the Blue-Grass Bear Management Unit (Blue-Grass BMU) of the Selkirk Grizzly Bear Recovery Zone (Selkirk Recovery Zone [SRZ]).

The primary road that provides east–west access around Continental Mountain is Bog Creek Road. The road was gated on both ends in the late 1980s for grizzly bear secure habitat and was maintained on a limited basis after that time. The road experienced minor failures in the mid-1990s, with a large failure occurring around 2000–2001, when a large culvert at approximately milepost (MP) 35 failed due to heavy surface water runoff. At that time, the road became impassable to most vehicles. Currently, the road is gated at the east end and barricaded at the west end.

CBP has identified Bog Creek Road as an important road for the agency to perform its statutory mission to protect the U.S. northern border. In recent years, the road has been infrequently used by CBP personnel traveling on all-terrain vehicles (ATVs) and on horseback. Agents from both the Metaline Falls station, located in Washington State, and the Bonners Ferry station in Idaho access the Blue-Grass BMU from both the west and east. Because of the impassability of Bog Creek Road, vehicular access to the Blue-Grass BMU is currently not available from the west, and the amount of vehicular operating time on restricted roads within the BMU is increased.

The IPNF has been working since the late 1980s to create secure habitat for grizzly bears and manage the habitat conditions of the SRZ. In 2011, the IPNF issued a Record of Decision (ROD) for the *Forest Plan Amendments for Motorized Access Management within the Selkirk and Cabinet-Yaak Grizzly Bear Recovery Zones (Access Amendment)*<sup>1</sup> that set motorized<sup>2</sup> vehicle access and security standards to meet the agency’s responsibilities under the Endangered Species Act (ESA) to conserve and contribute to the recovery of grizzly bears. The ROD and accompanying biological opinion from the U.S. Fish and Wildlife Service (USFWS) require the standards in the Access Amendment to be met in 2019. Additional detailed information on the *Grizzly Bear Recovery Plan*<sup>3</sup> and

---

<sup>1</sup> U.S. Department of Agriculture Forest Service (Forest Service). 2011. *Forest Plan Amendments for Motorized Access Management within the Selkirk and Cabinet-Yaak Grizzly Bear Recovery Zones*. November. Available at: [http://data.ecosystem-management.org/nepaweb/nepa\\_project\\_exp.php?project=24882](http://data.ecosystem-management.org/nepaweb/nepa_project_exp.php?project=24882). Accessed June 4, 2015.

<sup>2</sup> The term “motorized” as used throughout this ROD refers to wheeled motorized vehicles.

<sup>3</sup> U.S. Fish and Wildlife Service. 1993. *Grizzly Bear Management/Recovery Plan*. Missoula, Montana.

Access Amendment standards is contained in Chapter 1 of the final environmental impact statement (FEIS).

The Blue-Grass BMU is currently not meeting the motorized access standards set forth in the *Revised Land Management Plan, Idaho Panhandle National Forests* (Forest Plan).<sup>4</sup> The Forest Service has been planning to bring the BMU into compliance with the Access Amendment and the Forest Plan.

In June 2018, CBP and the Forest Service published the draft environmental impact statement (DEIS) analyzing the impacts of the proposed Bog Creek Road Project.

In February 2019, CBP and the Forest Service published the FEIS for the Bog Creek Road Project, containing changes resulting from comments on the DEIS.

## **2 ALTERNATIVES CONSIDERED**

### **2.1 No-Action Alternative (Alternative 1)**

For this project, the No-Action Alternative (Alternative 1) represents the effects of not implementing the proposed repair and maintenance of Bog Creek Road and motorized closure of seasonally restricted Forest Service roads, while taking into account the effects of other past, ongoing, and reasonably foreseeable activities occurring in the area. This alternative proposes that no repair and maintenance activities would occur on the 5.6-mile section of Bog Creek Road and that the 26 miles of seasonally restricted Forest Service roads would continue to be available for motorized use in accordance with seasonal access restrictions. There would be no change in Forest Service management of the roads and CBP activities in the Blue-Grass BMU.

Under the No-Action Alternative, the Forest Service would continue to work toward meeting the Access Amendment standards. However, it is unknown exactly which roads would be closed to motorized use to meet the standards, or when those roads would be closed. Therefore, future motorized closure actions are not analyzed as part of the No-Action Alternative.

### **2.2 Proposed Action (Alternative 2)**

The Proposed Action was developed through collaboration between CBP, the Forest Service, and the public. It was designed to meet the goals and objectives established for the project while meeting as many of the other resource needs as possible. The Proposed Action would consist of three components: 1) road repair and maintenance of Bog Creek Road and change in motorized use designation; 2) change in motorized use designation for Blue Joe Creek Road; and 3) motorized closure of selected seasonally restricted Forest Service roads.

---

<sup>4</sup> U.S. Department of Agriculture Forest Service (Forest Service). 2015. *Revised Land Management Plan, Idaho Panhandle National Forests*. Coeur d'Alene, Idaho: U.S. Forest Service.



## Repair and Maintenance of Bog Creek Road

Repair and maintenance of Bog Creek Road (Forest Service Road [FSR] 1013) would be conducted to allow the road to meet Forest Service road maintenance level 2 standards, which generally allow access for high-clearance vehicles. Maintenance level 2 roads are described in Forest Service Handbook 7709.58<sup>5</sup> as:

Assigned to roads open for use by high-clearance vehicles. Passenger car traffic is not a consideration. Traffic is normally minor, usually consisting of one or a combination of administrative, permitted, dispersed recreation, or other specialized uses. Log haul may occur at this level. Appropriate traffic management strategies are either to (1) discourage or prohibit passenger cars or (2) accept or discourage high-clearance vehicles.

Repair and maintenance would consist of grading and resurfacing areas of the road that have been heavily eroded by surface water flows, filling potholes, and removing protruding boulders. Repair would also include installation of six new culverts and replacement of six of the existing 67 corrugated metal pipe culverts located along the length of the roadway because they have partially rusted through, otherwise exceeded their usable life, or do not meet current design standards for width and capacity. The road would not be widened, but limited areas that no longer meet minimum width requirements may require cut-and-fill work to achieve the desired road operating and safety standards. Trees and other vegetation within the roadway and to either side would be grubbed or cut back to facilitate safe vehicle passage.

The most intensive repair would occur at Spread Creek, where a culvert failure and road washout has made the road completely impassable. New culverts would be placed, and the road would be rebuilt to a Forest Service maintenance level 2 standard.

Implementation of the decision would include gathering and transporting of fill materials (riprap, mixed soil/rock, and crushed aggregate) from two existing “borrow” pits to use in general resurfacing/fill and in installation of the culvert replacements. One proposed borrow pit is an existing pit located near MP 18.89 on FSR 1013. The other is located near the east end of Bog Creek Road.

The equipment that would be used in road repair includes dozers, graders, hydraulic excavators, and dump trucks. In addition, several pickup trucks or sport-utility vehicles (SUVs) will transport personnel to and from the area. Repair activities will occur between July 16 and November 15, and could last up to three seasons.

Upon completion, locking gates that minimize potential destruction, dismantling, or breaching would be installed at both ends of the 5.6-mile route and remain closed year-round. The road would be signed PUBLIC MOTORIZED ENTRY PROHIBITED – THIS ROAD IS UNDER SURVEILLANCE – VIOLATORS WILL BE PROSECUTED. CBP would regularly monitor road access and gates to ensure that no illegal motorized access is occurring along the road.

Bog Creek Road is currently designated as a seasonally restricted road. This administrative use is limited to 57 vehicle round trips per active bear year (April 1 through

---

<sup>5</sup> U.S. Department of Agriculture Forest Service. 1995a. Chapter 10. Forest Service Handbook 7709.58. *Transportation System Maintenance Handbook* Amendment No. 7709.58. Effective July 28, 1995.

November 15), apportioned as follows:  $\leq 19$  round trips in spring (April 1 through June 15);  $\leq 23$  round trips in summer (June 16 through September 15); and  $\leq 15$  round trips in fall (September 16 through November 15). Motorized use is permitted only for administrative purposes such as Forest Service, CBP, and other State and Federal administrative agencies. After road repair activities, the road would change to an *administrative open* designation (as-needed administrative motorized access). Under the *administrative open* road designation, Bog Creek Road would be open to as-needed administrative motorized access but not open to the public for motorized travel.

Repair and maintenance of Bog Creek Road and the change to an *administrative open* designation would allow for as-needed administrative motorized access from the west. The current seasonal restrictions, which limit the number of motorized administrative trips along Bog Creek Road, would be removed. Motorized administrative trips would be used by CBP, the Forest Service, other State and Federal administrative agencies, and Continental Mine private property owners.

The western approach road to Bog Creek Road, FSR 1013, which leads out of the Blue-Grass BMU, would remain as it is currently designated, as open to the public for unlimited motorized travel. The roads along the eastern approach to Bog Creek Road would retain their current seasonally restricted road classification. Administrative vehicle trips to Bog Creek Road from the east or trips from the west that continue past Bog Creek Road's eastern gate would therefore be limited under these terms.

The administrative agencies would coordinate trips to ensure that allowed motorized use is not exceeded. Consistent with the "Memorandum of Understanding Among U.S. Department of Homeland Security and U.S. Department of the Interior and U.S. Department of Agriculture Regarding Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States' Borders," dated March 31, 2006, the limitation on access does not apply to exigent/emergency access as described in the memorandum of understanding (MOU).<sup>6</sup> CBP does not anticipate that this authority would be used frequently but cannot predict the threats to human life, health, or safety or to national security that may arise in the future.

Winter motorized snowmobile use by the public is currently not allowed on Bog Creek Road as a result of the legal rulings of November 7, 2006, and February 27, 2007, relating to recovery of woodland caribou and the potential impacts of snowmobile use within the recovery area. Law enforcement members are currently exempt from the snowmobile closure. Long-term future actions for Bog Creek Road maintenance would include grubbing or trimming vegetation along the roadside, cleaning culverts, and periodic grading.

## **Open Administrative Use Designation for Blue Joe Creek Road**

Blue Joe Creek Road (FSR 2546) extends from the eastern terminus of Bog Creek Road, running 5.5 miles alongside Blue Joe Creek, to the Continental Mine property. This

---

<sup>6</sup> U.S. Department of Homeland Security, U.S. Department of the Interior, and U.S. Department of Agriculture. 2006. Memorandum of Understanding Among U.S. Department of Homeland Security and U.S. Department of the Interior and U.S. Department of Agriculture Regarding Cooperative National Security and Counterterrorism Efforts on Federal Lands along the United States' Borders. March 31. Available at: <https://cis.org/sites/cis.org/files/articles/2010/mou.pdf>.

section of road is currently designated as seasonally restricted, and motorized access is limited to 57 vehicle round trips per active bear year. The current seasonal restrictions that limit the number of motorized administrative trips along Blue Joe Creek Road would be removed. The road would be designated as *administrative open*, which would allow for as-needed administrative motorized trips. This change in designation, when combined with the Bog Creek Road designation change, allows for administrative trips by private property owners to access their property within the Blue-Grass BMU.

## **Motorized Road Closure of Selected Seasonally Restricted Forest Service Roads**

Approximately 26 miles of seasonally restricted Forest Service roads would be closed to all wheeled motorized use within the Blue-Grass BMU, which is part of the SRZ. Closing the roads would allow the Forest Service to meet the requirements of at least 55 percent of the BMU as core habitat, no more than 33 percent of the BMU having an open motorized route density (OMRD) greater than 1 mile per square mile, and no more than 26 percent of the BMU having a total motorized route density (TMRD) greater than 2 miles per square mile, as specified in the Access Amendment.<sup>7</sup> The means by which motorized road closure would take place would vary by site and would include both decommissioning and long-term storage. Decommissioning involves permanently removing a road from the Forest Service transportation system. Roads that are placed into long-term (e.g., a minimum of 10 years) storage remain on the system, but are rendered undrivable. On-the-ground road work may be very similar between decommissioning and long-term storage, as both are intended to prevent future failures and erosion hazards. Both methods may involve one or a combination of the following treatments: fully or partially recontouring the road prism, ripping the road surface, removing culverts and recontouring stream crossings, planting and seeding, mulching, or slashing disturbed areas.

All roads proposed for motorized closure under the Proposed Action are classified as seasonally restricted Forest Service roads. Motorized public access on these roads is only permitted to occur between November 16 and March 31. Non-motorized public access on these roads is permitted year-round.

## **2.3 Alternative 3 – Modified Proposed Action (Preferred Alternative/Environmentally Preferable Alternative)**

Alternative 3 is the agencies' Preferred Alternative in the FEIS. It is a modified version of the Proposed Action that would close a different set of seasonally restricted Forest Service roads to motorized access. The repair and maintenance activities proposed for Bog Creek Road and the *administrative open* designation for Bog Creek Road and Blue Joe Creek Road are the same as described under the Proposed Action.

Under Alternative 3, approximately 25 miles of Forest Service roads within the Blue-Grass BMU would be closed to all motorized use. This would allow the Forest Service to meet the Access Amendment grizzly bear core habitat requirement of 55 percent and the TMRD requirement of 26 percent.

---

<sup>7</sup> Forest Service, 2011.

Two of the nine roads proposed for motorized road closure under Alternative 3 would be different from the roads proposed for closure under the Proposed Action. These roads were selected to be included in this alternative because closing these roads would create more core grizzly bear habitat in upper Grass Creek, a place that has been heavily and continuously used by grizzly bears since at least the 1980s.

All roads proposed for motorized closure under Alternative 3 are classified as seasonally restricted Forest Service roads. Motorized public access on these roads is only permitted to occur between November 16 and March 31. Non-motorized public access on these roads is permitted year-round.

Section 5.2 of this ROD further discusses why the previously mentioned factors make Alternative 3 also the Environmentally Preferred Alternative.

## **2.4 Alternative 4 – Blue-Grass BMU West–East Open Access**

Alternative 4 is a modified version of the Proposed Action that would open Bog Creek Road and roads along the eastern approach to Bog Creek Road to unlimited public motorized access year-round. Under Alternative 4, Bog Creek Road repair and maintenance and the motorized closure of seasonally restricted Forest Service roads would be identical to the Proposed Action. After repair of Bog Creek Road is completed, the 5.6 miles of the repaired Bog Creek Road would be designated as open for unlimited public motorized access year-round. However, winter motorized snowmobile use by the public is currently not allowed on Bog Creek Road as a result of the court orders of November 7, 2006, and February 27, 2007, relating to recovery of woodland caribou and the potential impacts of snowmobile use within the recovery area.

Approximately 4.5 miles of Blue Joe Creek Road would change to an administrative open designation (as-needed administrative motorized access). Additionally, the designation of roads along the eastern approach to Bog Creek Road (FSRs 2546, 1011, 636, and 1009) would also change from the current seasonally restricted designation (limited motorized access) to an open road designation (unlimited motorized access) to allow for continuous unrestricted public motorized travel around Continental Mountain.

## **2.5 Alternative 4 Modified**

Alternative 4 Modified was developed for inclusion in the FEIS in response to stakeholder alternative suggestions during the DEIS public comment period. Alternative 4 Modified allows for similar east–west public access as Alternative 4, but limits it to a 1-month period per year, from July 15 through August 15. It also includes a different combination of roads proposed for motorized closure, compared with the alternatives analyzed in the DEIS. All other proposed project components are the same as under Alternative 4.

## **2.6 Alternatives Not Considered in Detail**

Multiple public comments received during the review of the DEIS requested that the Forest Service provide unrestricted motorized access to some roads in the Blue-Grass BMU. The Forest Service reviewed the BMU’s road system to determine whether other roads, beyond those analyzed in the DEIS, could be opened to unrestricted public access

through this EIS process. After review of grizzly bear habitat models and consultation with the USFWS, it was determined that by opening these roads the Forest Service would not be in compliance with Management Situation (MS) 1 requirements as directed by the Access Amendment and the Forest Plan (see Section 3.2.3.1 of the FEIS for further discussion on MS1 requirements). This does not preclude future changes to road designations in the BMU. Under the Access Amendment, the Forest Service can, in coordination with the USFWS, review and revise road designations within the BMU.

Additional alternatives that were dismissed from further consideration are described in Section 2.3 of the FEIS.

## **3 DECISION FRAMEWORK**

### **3.1 Joint Process**

CBP and the Forest Service are working together as joint lead agencies for this FEIS and are each issuing a separate draft ROD. The Assistant Commissioner, Office of Facilities and Asset Management, CBP, is the deciding official for CBP. The Forest Supervisor, IPNF, is the deciding official for the Forest Service. Given the purpose and need, the deciding officials review the Proposed Action, the other alternatives, and the environmental consequences in order to make the following decisions:

#### **CBP decision:**

The CBP decision is whether to approve funding for and execute the repair and maintenance of Bog Creek Road, contingent on the Forest Service's approval.

#### **Forest Service decision:**

The Forest Service decision is: 1) whether to approve the repair and maintenance of Bog Creek Road; 2) whether to implement the motorized closure of seasonally restricted Forest Service roads (approximately 26 miles under the Proposed Action, Alternative 4, and Alternative 4 Modified, or 25 miles under Alternative 3) to establish grizzly bear core area habitat and meet Access Amendment standards for the Blue-Grass BMU; and 3) whether to implement changes in the seasonally restricted designation of roads in the Blue-Grass BMU.

## **4 DESCRIPTION OF THE CBP DECISION**

### **4.1 Selection of Alternative 3 (Modified Proposed Action)**

Based on the analysis of issues and the joint framework for decision-making for this project, CBP and the Forest Service have selected the Preferred Alternative, Alternative 3 (Modified Proposed Action), with modifications as the Selected Alternative. CBP has determined that the Selected Alternative will fulfill CBP's need to achieve "safe east-west access for administrative use to this section of the U.S.–Canada border across the Selkirk Mountains." CBP confirms that based upon the analysis in the FEIS, the Selected

Alternative will best meet the purpose and need; address issues; respond to public comments; and comply with laws, regulations, and policy. As such, CBP will implement the repair and maintenance of Bog Creek Road as detailed in Section 4.3. The Selected Alternative is within the range of actions and effects analyzed and disclosed in the FEIS.

## 4.2 Modifications Included in the Selected Alternative

The Selected Alternative includes the following Alternative 3 components and modifications:

1. The road repair and maintenance of Bog Creek Road between the existing gate on FSRs 1013 and 2546 within the Blue-Grass BMU and change in designation for Bog Creek Road from *seasonally restricted* to *administrative open* (as-needed administrative motorized access) are retained as proposed in Alternative 3. The direct, indirect, and cumulative effects of *administrative open* access on Bog Creek Road are disclosed in the FEIS.
2. The change in designation for approximately 5.5 miles of Blue Joe Creek Road (FSR 2546) from *seasonally restricted* to *administrative open* is retained as proposed in Alternative 3. This change will allow for access to Continental Mine by private property owners to access their property as per the special use permit that will be authorized in conjunction with this decision. The special use permit will be structured to allow for unlimited trips from the west and will require compliance with trip counts from the east. Terms of the special use permit will require that access to the mine property is direct and will not allow for use of public lands along the road corridor at any time. The direct, indirect, and cumulative effects of *administrative open* access on Blue Joe Creek Road are disclosed in the FEIS.
3. The motorized road closure of seasonally restricted FSRs 2464 (Lower), 2464 (Upper), 1322, 1322A, 1013D, 1013C, 1388A, and 2.7 miles of FSR 2253 is retained as proposed in Alternative 3. Modifications to Alternative 3 include motorized closure of FSR 1388. This establishes grizzly bear core area habitat to meet the Access Amendment standards in the Blue-Grass BMU. Under the Selected Alternative, FSR 636 will remain as *seasonally restricted*. This designation will allow motorized access for a livestock permittee within the Blue-Grass BMU to several salting locations along FSR 636 that are visited periodically. The number of trips will be limited to six per active bear year and will be counted as per the current condition in the No-Action Alternative. The direct, indirect, and cumulative effects of maintaining FSR 636 as *seasonally restricted* are disclosed in the FEIS.
4. Although FSR 1388 will be closed to motorized use, snowmobile use will be allowed on this road. The direct, indirect, and cumulative effects of continuing to allow snowmobile use on FSR 1388 are disclosed in the FEIS.

## 4.3 Mitigation

Mitigation measures are additional site-specific actions developed to avoid or reduce effects to resources that may occur despite the implementation of design features. After analyzing the potential effects of proposed activities, CBP determined that most effects

were eliminated or reduced through the implementation of design features and therefore do not require additional mitigation. Design features will be incorporated into different phases of the project, as described in Appendix B of the FEIS.

To minimize the risk of grizzly bear mortality related to repair activities on Bog Creek Road and the presence of repair personnel in the Blue Grass BMU, CBP will require personnel to implement measures that limit the attraction of the job site and camp to grizzly bears. Personnel will keep the job site and camp clean and free of food and other waste that could attract grizzly bears. The camp will be enclosed by an electric fence. Personnel will be prohibited from carrying firearms beyond Forest Service gates, but for one exception described below. Furthermore, a bear safety plan and a full-time bear safety monitor will be required. The bear safety monitor may be armed and will be responsible for educating other personnel on bear safety; ensuring that the electric fence is maintained, that the job site is clean, and that all other design features and project conditions related to grizzly bear safety are implemented; and documenting and reporting to the Forest Service and USFWS grizzly bear observations.

Under the Selected Alternative, the roads along the eastern approach to Bog Creek Road will retain their current seasonally restricted road classification. This administrative use is limited to 57 vehicle round trips per active bear year, apportioned as follows:  $\leq 19$  round trips in spring (April 1 through June 15);  $\leq 23$  round trips in summer (June 16 through September 15); and  $\leq 15$  round trips in fall (September 16 through November 15). Administrative vehicle trips to Bog Creek Road from the east or trips from the west that continue past Bog Creek Road's eastern gate will therefore be limited under these terms.

The Selected Alternative provides offsets for habitat and genetic connectivity loss and mortality risk increase at Bog Creek with habitat and genetic connectivity gain and mortality risk decrease at Grass Creek. In order to demonstrate that these offsets occur, CBP commits to provide funds to the USFWS or another party for a period of up to 10 years to survey, monitor, and research grizzly bear movement and activity in the SRZ, primarily in the Blue-Grass BMU, on the U.S.–Canada international border where grizzly bear are most likely to cross, and along potential, historic, and known grizzly bear travel corridors. Funds could be used to acquire physical assets, such as camera traps and tracking collars, or pay for research personnel, transportation expenses, and other related services.

To minimize the risk of grizzly bear mortality related to as-needed motorized use of Bog Creek Road and Blue Joe Creek Road, CBP will assist in funding an Idaho Department of Fish and Game (IDFG) Conservation Officer or provide funds to another party for a period of up to 10 years to work with CBP, Forest Service, USFWS, IDFG, local governments, communities, and individuals to collect information on grizzly bear sightings, develop infrastructure for reporting grizzly bear sightings, develop grizzly bear conservation training and capacity building where grizzly bear knowledge is lacking, and conduct educational programs focused on the importance of grizzly bear conservation.

## **4.4 Monitoring Activities**

Monitoring must be summarized in the ROD “where applicable for any mitigation” (40 Code of Federal Regulations [C.F.R.] 1505.2). As described in Section 4.3, a full-time bear safety monitor will be responsible for ensuring avoidance and minimization of

grizzly bear mortality during repair activities. CBP will prepare a summary monitoring report to be made available to the Forest Service and USFWS after the completion of repair activities. Annual reports will be developed by USFWS, IDFG, or other funded parties to document progress and results from grizzly bear movement and activity research and the development of educational and outreach programs. Where appropriate, reports and papers resulting from these projects will be peer reviewed and made available to the public.

## 5 DECISION RATIONALE

The decisions related to this project are based on a fair analysis of the scientific and environmental data, effects analysis, and public response in relation to the governmental and societal needs that the agencies need to address.

The development of the FEIS and draft ROD has been based on consideration of the best available science. This has occurred by carefully reviewing available scientific research and other information relevant to the Bog Creek Road Project. Scientific conclusions are drawn from well-supported data sources, and data availability is disclosed. Scientific sources relied upon were cited, responsible opposing views were discussed, incomplete and unavailable information was acknowledged, and scientific uncertainty and risk were addressed in relevant portions of the FEIS or administrative records. In addition, the specific modeling and analysis methods used were documented, as appropriate.

The Forest Service and CBP encouraged public participation from the beginning and maintained participation throughout the planning process, including issue identification and the analysis documentation process. Project-specific public comments were used to refine alternative design and ensure a thorough analysis, helping the project interdisciplinary team and CBP in determining the best course of action for the project.

The factors CBP used to make the decision on this project included the following:

- Effectiveness in meeting CBP's underlying purpose and need (FEIS, Chapter 2)
- Public comments (FEIS, Chapter 2; and Appendix C, Response to Comments on the Draft Environmental Impact Statement)
- Relationship to environmental and social issues (FEIS, Chapter 3)
- Analysis completed and disclosed in the FEIS and project record documentation
- Consistency with findings required by other laws, regulations, and policy (FEIS, Chapter 3, by resource)

The analysis and decision processes for this project are based on the consideration of the best available science. The manner in which the best available science is addressed can be found throughout the EIS, in the Response to Comments on the Draft Environmental Impact Statement (see FEIS, Appendix C), and the project record.

### 5.1 Effectiveness in Meeting CBP's Underlying Need

As discussed in the Introduction and stated in the purpose and need statement in the FEIS, CBP needs improved east-west access across the Selkirk Mountains on NFS lands to



enable CBP to execute its statutory mission to protect the U.S. northern border and for the safety of CBP and other law enforcement officers while carrying out their duties.

The Introduction and FEIS also state that Forest Service has the need to meet legally required IPNF Forest Plan standards for motorized access in grizzly bear habitat in the Blue-Grass BMU that is compatible with the needs of grizzly bear as defined in the Recovery Plan.

While CBP does not have a direct stake in the Forest Service's meeting the IPNF Forest Plan standards, it does recognize that the Bog Creek Road repairs cannot be approved by the Forest Service unless it can otherwise also meet the legal mandates regarding motorized access. Therefore, CBP's acceptance and approval of the overall Selected Alternative is based on that understanding.

### **Providing Improved East–West Access**

Reliable access to areas north of Continental Mountain is needed for CBP to meet its mission requirements. This requires improved east–west routes for east-west access to these areas of the IPNF. CBP agents must be able to access the U.S.–Canada border to prevent illegal activities before perpetrators can reach areas where they can blend into legitimate activities and elude apprehension. CBP requires unimpeded access and mobility for the purposes of response to emergency and exigent circumstances, patrol along the border, technology deployment, and maintenance of strategically placed roads and tactical infrastructure.

Alternative 1 does not respond to this element of the purpose and need. Under this alternative, CBP and Forest Service motorized administrative road access will be limited due to the mostly impassable road conditions of Bog Creek Road. CBP will not have the motorized access in this area needed to execute its statutory mission.

Under any of the action alternatives, repair and maintenance of Bog Creek Road and changes in road designations to allow for administrative open trips west–east across the Selkirk Mountains on NFS lands will provide CBP with reliable access to areas north of Continental Mountain. However, each provides tradeoffs in CBP's capability to control the border effectively as described in the FEIS (Chapter 3, Section 3.8, Recreation and Access).

The Selected Alternative and the Proposed Action provide the most advantageous balance among these alternatives by providing CBP agents unimpeded west–east access to and along the border north of Continental Mountain from both directions in the event of emergency or exigent circumstances, providing reliable and as-needed access from the west for routine patrol and other purposes, and limiting the detrimental effects to situational awareness and threat identification of the general public traversing the immediate border area.

### **Forest Service Requirement to Meet Access Amendment Standards for the Blue-Grass BMU and Recovery Plan for the Grizzly Bear**

The IPNF is required to meet the Access Amendment standards for the Blue-Grass BMU in 2019. To meet these standards, the IPNF must identify roads for motorized road

closure. Regardless of the access status of Bog Creek Road, additional road closures will still be required to meet the Access Amendment standards in the BMU. The IPNF must consider multiple uses of the forest road system, including access for border security functions, and balance the interests of a number of stakeholders, including public users. As identified in the Access Amendment ROD<sup>8</sup> and the 2015 Forest Plan,<sup>9</sup> proposed land management uses—which include the transportation system—should be compatible with the needs of the grizzly bear as defined in the Recovery Plan.

Alternative 1 does not respond to this element of the purpose and need. Under this alternative, motorized road closures of seasonally restricted Forest Service roads would not occur, and the Forest Service would not meet the Access Amendment standards through the establishment of new grizzly bear core area habitat. Although the Forest Service would continue to examine road closure options to meet Access Amendment requirements within the Blue-Grass BMU under the No-Action Alternative, compliance with the Access Amendment standards would not change until currently unidentified other viable road closure options are implemented.

The action alternatives provide tradeoffs for meeting the Access Amendment standards for the Blue-Grass BMU and Recovery Plan for the grizzly bear. Motorized road closure under any of the action alternatives would allow the Forest Service to meet the Access Amendments standards for the Blue-Grass BMU. However, open motorized access under Alternative 4 and Alternative 4 Modified would not be in compliance with MS1 requirements as directed by the Access Amendment and the Forest Plan. The Selected Alternative affords greater protection to grizzly bear than the Proposed Action by providing offsets for habitat and genetic connectivity loss and mortality risk increase at Bog Creek with habitat and genetic connectivity gain and mortality risk decrease at Grass Creek.

## 5.2 Environmentally Preferred Alternative

It is required by law that one or more environmentally preferred alternatives be disclosed. The environmentally preferred alternative must “encourage productive and enjoyable harmony between man and his environment,” “promote efforts which will prevent or eliminate damage to the environment and biosphere,” and “stimulate the health and welfare of man” (42 United States Code [U.S.C.] 4321). For this project, because CBP and the Forest Service are working together as joint lead agencies, the environmentally preferred alternative must also meet Forest Service standards and specifically cause the least harm to the biological and physical environment while best protecting and preserving historic, cultural, and natural resources (36 C.F.R. 220.3). The environmentally preferred alternative is not necessarily the alternative that will be implemented, and it does not have to meet the underlying need of the project.

In the short term, Alternative 1 would seem to be the environmentally preferred alternative because it would not result in new disturbances to the biological and physical environment. However, Alternative 1 fails to address several existing environmental concerns present in the project area, including failure to meet the Access Amendment standards for core area habitat and TMRD in the Blue-Grass BMU, and continued

---

<sup>8</sup> Forest Service, 2011.

<sup>9</sup> Forest Service, 2015.

sedimentation to area streams from erosion along Bog Creek Road and public and administrative use of motorized roads.

Alternative 3 is identified as the environmentally preferred alternative because it would achieve the Access Amendment standards for TMRD and core area habitat (see FEIS Chapter 2, Table 2.4.2) and is most compatible with the needs of the grizzly bear with regard to MS1. Although Alternative 3 would result in short- and long-term impacts, which are described in Chapter 3 of the FEIS, these impacts would be outweighed in the long term by the actions benefiting grizzly bear recovery in the Blue-Grass BMU.

## **Threatened, Endangered, and Proposed Species**

### ***Grizzly bear***

The Selected Alternative proposes motorized road closures so that the BMU will be in compliance with its TMRD, OMRD, and core area habitat Access Amendment standards. It also includes offsets for habitat and genetic connectivity loss and mortality risk increase at Bog Creek with habitat and genetic connectivity gain and mortality risk decrease at Grass Creek. Specific design features implemented to reduce effects on grizzly bears (Features Designed to Protect Special-Status Wildlife Species) are discussed in Appendix B of the FEIS.

### ***Selkirk Mountain woodland caribou, Canada lynx, bull trout, and bull trout designated critical habitat***

The Selected Alternative will adhere to the threatened and endangered species requirements of the Forest Plan (see Table 3.2.10 of the FEIS) and be in compliance with the ESA and the National Forest Management Act (NFMA) under the 2012 Forest Service planning rule.<sup>10</sup> The Selected Alternative proposes motorized road closures, so that the Blue-Grass BMU will be in compliance with its TMRD, OMRD, and core area habitat Access Amendment standards. Specific design features implemented to reduce effects on bull trout (Features Designed to Protect Fish Species and Habitat, Features Designed to Protect Waters of the U.S.) are discussed in Appendix B of the FEIS.

### ***North American wolverine***

The analyses presented in Section 3.2 of the FEIS meet the requirements for a biological evaluation (BE) for the North American wolverine, as outlined in Forest Service Manual (FSM) 2672.42.<sup>11</sup> The Selected Alternative is consistent with the Forest Plan and policy direction to “ensure that these species do not trend toward federal listing as a result of management actions.” The Selected Alternative will not result in a threat to the North American wolverine.<sup>12</sup> Design features implemented to reduce effects on wolverine are discussed in Appendix B of the FEIS.

---

<sup>10</sup> U.S. Department of Agriculture Forest Service (Forest Service). 2012a. 36 C.F.R. Part 219 National Forest System Land Management Planning. Available at: [http://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5362536.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5362536.pdf). Accessed October 18, 2016.

<sup>11</sup> U.S. Department of Agriculture Forest Service (Forest Service). 2005. Forest Service Manual 2600 – *Wildlife, Fish, and Sensitive Plant Habitat Management*, 2670. Washington, D.C.: U.S. Department of Agriculture Forest Service National Headquarters.

<sup>12</sup> U.S. Department of Agriculture Forest Service. 2014. *Programmatic Biological Assessment for North American Wolverine*. Missoula, Montana: Northern Region.

## Wildlife

The Selected Alternative is consistent with the Forest Plan and policy direction to “ensure that these species do not trend toward Federal listing as a result of management actions.” The Selected Alternative will not affect more than 1 percent of potentially suitable sensitive species habitat in the project-scale wildlife analysis area; and the Selected Alternative will affect a lower percentage of habitat available within the landscape-scale analysis area. Therefore, the Selected Alternative will also be consistent with the NFMA requirements under the 2012 Forest Service planning rule to “support the diversity and persistence of native plant and animal species.”<sup>13</sup> As a result, the project will also be in compliance with the Migratory Bird Treaty Act and Executive Order (EO) 13186.

The sensitive species analyses in the FEIS (Chapter 3) serve as a BE as outlined in FSM 2672.42<sup>14</sup> and find for the species analyzed, that the Selected Alternative may impact individuals or habitat, but will not likely contribute to a trend toward Federal listing or cause a loss of viability to the population or species.

## Fish

The Selected Alternative will adhere to the aquatic resources requirements of the Forest Plan, as amended by INFISH, and in compliance with the State of Idaho’s implementation of the Clean Water Act (CWA). Vegetation clearing in the riparian habitat conservation areas (RHCAs) for road repair and maintenance is consistent with the CWA and the Forest Plan, including INFISH. The loss of large woody debris input within the vicinity of the road–stream crossing removals and replacements will be a long-term minimal impact, with less than 1 percent of the RHCAs affected under the Selected Alternative.

The diversity and persistence of native fish species in the fish-bearing streams in the analysis area will continue to be supported, as directed by the NFMA under the 2012 Forest Service planning rule.<sup>15</sup>

In accordance with FSM 2670,<sup>16</sup> the FEIS analysis serves as a BE for the westslope cutthroat trout and interior redband trout and finds for both species that the Selected Alternative may impact individuals or habitat, but will not likely contribute to a trend toward Federal listing or cause a loss of viability to the population or species.

## Special Status Plants

The Selected Alternative will be consistent with the Forest Plan and other applicable standards because project implementation will not exceed regional or forest standards for the protection of special status plants and associated rare plant habitats. Implemented design features (see FEIS, Appendix B) will ensure that project actions minimize soil disturbance, erosion, and downstream sedimentation from disturbed areas.

---

<sup>13</sup> Forest Service, 2012a, page 21216.

<sup>14</sup> Forest Service, 2005.

<sup>15</sup> Forest Service, 2012a.

<sup>16</sup> Forest Service, 2005.

## Water Resources

The Selected Alternative will meet the standards of the Forest Plan and specific riparian management objectives identified by INFISH (see RF-2d, RF-2e, and RF-2f).<sup>17</sup> Because design features (see FEIS, Appendix B) will be implemented to specifically minimize impacts to water resources, the effects on shade, temperature, or sediment yield will be minimal. The estimated effects from the proposed activities will be consistent with watershed-scale efforts to improve water quality. As indicated by the analysis, after application of design features, the expected sediment impacts from culvert replacement/removal will be short term, both spatially and temporally, and quickly return to background levels. In addition, removal of vegetation will be limited to minimize impact to water temperature. With regard to wetlands and other waters of the U.S., the project will be in compliance with the CWA and consistent with the Forest Plan, with the inclusion of INFISH standards.<sup>18,19</sup>

## Soil Resources

The Selected Alternative will be consistent with the Forest Plan standards because project implementation will not result in an exceedance of regional soil quality standards. Implemented design features (see FEIS, Appendix B) will ensure that project actions minimize soil disturbance and erosion from disturbed areas.

## Recreation and Access

The Selected Alternative is consistent with the Forest Plan because it continues to provide access for recreation uses and administrative activities in the Blue-Grass BMU while meeting the Access Amendment standards as required in the Forest Plan. Administrative activities include Forest Service management activities, CBP border security activities, tribal access, private property owner access, and grazing permittee access.

## Heritage and Tribal Resources

The Selected Alternative will be consistent with the Forest Plan standards for heritage and tribal resources. No adverse effects on heritage resources are anticipated. The Forest Service received State Historic Preservation Office concurrence that no adverse effects on historic properties will occur. However, there is no assurance that every heritage resource site has been located. Any discovery found during repair and maintenance activities or during motorized road closure activities will be subject to Forest Service discovery procedures. Additionally, the Forest Service consulted with the Kootenai Tribe of Idaho regarding tribal access in the Blue-Grass BMU and continues to provide for access to treaty areas in the BMU. Although some areas will no longer be accessible via motorized travel, the Forest Service is allowing access to the BMU by other means and therefore the Selected Alternative is consistent with Forest Plan standards.

---

<sup>17</sup> U.S. Department of Agriculture Forest Service (Forest Service). 1995b. *Inland Native Fish Strategy: Interim Strategies for Managing Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho, Western Montana and Portions of Nevada*.

<sup>18</sup> Forest Service, 1995b.

<sup>19</sup> Forest Service, 2015.

## 5.3 Findings Required by Other Laws, Regulations, and Policy

### National Forest Management Act

The NFMA requires that all projects must be consistent with the governing Forest Plan (or Plans) (16 U.S.C. 1604[i]). The FEIS (Chapter 3) addresses consistency of the alternatives with the IPNF Forest Plan standards and other legal requirements, as do Sections 5.2 and 5.3 of this ROD for the Selected Alternative. Potential physical, biological, cultural, and engineering impacts of the Selected Alternative have been assessed and are disclosed in the FEIS (Chapter 3) with supporting information in the administrative record. Based on the conclusions presented in the FEIS and Section 5.2 that proposed activities are within Forest Plan standards, this decision is consistent with Forest Plan direction. No IPNF Forest Plan amendment is required.

### Clean Water Act

The Federal CWA governs forest management practices and development that have the potential to affect water quality, through control of point and non-point sources. The U.S. Environmental Protection Agency is charged with administration of the CWA, which has been delegated to the Idaho Department of Environmental Quality (IDEQ).

The IPNF upholds the Federal CWA through the application and enactment of appropriate Federal and state water quality protection permits; the application of design features and monitoring for effectiveness; and by participating with the State of Idaho in design feature forestry audits, water quality data collection, and implementation of total maximum daily loads (TMDLs) and water quality research programs. Project activities will need to be consistent with these strategies and the *National Best Management Practices for Water Quality Management on National Forest System Lands*.<sup>20</sup>

With respect to specific project impacts, the Selected Alternative will be required to comply with Sections 402 and 404 of the CWA. Section 402 limits point source discharge of stormwater runoff and requires preparation of a Stormwater Pollution Prevention Plan. Section 404 limits “dredge and fill” within waters of the U.S. (including wetlands) and requires permitting by the U.S. Army Corps of Engineers (USACE).

CWA and State of Idaho water law compliance for this project will be reviewed in the annual Interagency Nonpoint Source Water Quality Program MOU meeting. This meeting is held each spring and is typically attended by IPNF, Idaho Department of Lands, USACE, Idaho Department of Water Resources, USFWS, and IDEQ. During this meeting, the use of the appropriate Nationwide Permits or need for pre-construction notification will be assigned to parts of the project, such as stream crossing culvert removals or replacements. Following the meeting, the IPNF will coordinate with the permitting agencies to provide the information necessary to obtain the required permits.

---

<sup>20</sup> U.S. Forest Service. 2012b. *National Best Management Practices for Water Quality Management on National Forest System Lands*. Vol. 1: *National Core BMP Technical Guide*. FS-990a. Available at: [http://www.fs.fed.us/biology/resources/pubs/watershed/FS\\_National\\_Core\\_BMPs\\_April2012.pdf](http://www.fs.fed.us/biology/resources/pubs/watershed/FS_National_Core_BMPs_April2012.pdf). Accessed September 3, 2015.

With regard to floodplains, the project will be consistent with EO 11988. Though there are no mapped Federal Emergency Management Agency floodplains within the analysis area, impacts to the stream's floodplains will occur under the Selected Alternative. However, because floodplain hydrologic connectivity will still be maintained, and because the INFISH criteria and standards incorporate specific protections for these areas, development of the Selected Alternative will not increase or alter the risk of floods.

## Endangered Species Act

Consultation with the USFWS pursuant to Section 7 of the ESA is currently underway. The Forest Service has submitted a biological assessment to the USFWS. The USFWS's Biological Opinion will be provided as further supporting documentation in the Final Record of Decision. The following threatened, endangered, and proposed species will be affected at a level that does not increase risk to the species, with effects adequately mitigated through project design (see Appendix B of the FEIS) and mitigation measures (see Section 4.4 of this ROD).

- Grizzly bear: The Selected Alternative may affect, is likely to adversely affect, grizzly bear. The Selected Alternative is compatible with the needs of the grizzly bear, as defined by the Recovery Plan, with regard to maintaining or improving habitat and it reduces mortality risk from the current risk under the No-Action Alternative. The Selected Alternative would improve genetic connectivity in the center of the BMU at Grass Creek, while decreasing it on the west side of the BMU at Bog Creek.
- Selkirk Mountain woodland caribou: Because of temporary human noise and activity during repair and motorized closures and minor habitat impacts (less than 1 percent), the Selected Alternative may affect, is likely to adversely affect, Selkirk Mountain woodland caribou.
- Canada lynx: Because of temporary human noise and activity during repair and motorized closures and minor habitat impacts (less than 1 percent), the Selected Alternative may affect, but is not likely to adversely affect, Canada lynx.
- North American wolverine: Because of conservation measures protecting denning individuals, and concurrence from USFWS that human use and disturbance are not a threat to the species,<sup>21</sup> the Selected Alternative will not jeopardize the continued existence of the North American wolverine.
- Bull trout are listed as threatened under the ESA. Although bull trout could be present downstream of the project area, the Selected Alternative may affect, but is not likely to adversely affect bull trout or bull trout designated critical habitat because of the following factors:

---

<sup>21</sup> U.S. Fish and Wildlife Service. 2013. Endangered and threatened wildlife and plants; Threatened status for the distinct population segment of the North American wolverine occurring in the contiguous United States; Establishment of a nonessential experimental population of the North American wolverine in Colorado, Wyoming, and New Mexico; Proposed Rules. 50 C.F.R Part 17. Federal Register 78(23):7864–7890. February 4. Available at: <https://www.gpo.gov/fdsys/pkg/FR-2013-02-04/pdf/2013-01478.pdf>. Accessed August 22, 2016.

- Under the Proposed Action, no in-stream work will occur in stream segments occupied by bull trout or bull trout designated critical habitat. Bull trout distribution and migratory corridors will not be affected by the Selected Alternative.
- Best management practice implementation required by INFISH will ensure that no sedimentation occurs in downstream reaches occupied by bull trout.
- Sedimentation from culvert replacement could be measurable to 800 feet downstream,<sup>22</sup> and 3,000 feet downstream of culvert removals.<sup>23</sup> These effects will be temporary, with 95 percent of sediment released within several hours to 24 hours of completing the culvert replacement or removal.<sup>24</sup> It is likely that bull trout are located over 4,000 feet downstream of this in-stream work (downstream of the Malcom Creek migratory barrier).

Whitebark pine (*Pinus albicaulis*), an ESA candidate species, has the potential to occur in the vicinity of the project, but it was not observed during the 2014 field survey and is not likely to occur within the area likely to incur effects. Thus, no impacts to whitebark pine from the Selected Alternative are anticipated.

## National Historic Preservation Act

The Forest Service has conducted heritage resources surveys of the analysis area to identify any historic properties that may be eligible for the National Register of Historic Places. No adverse effects on heritage resources are anticipated. The Forest Service received State Historic Preservation Office concurrence that no adverse effects on historic properties will occur. However, there is no assurance that every heritage resource site has been located. Terrain disturbance could expose previously undiscovered historic or prehistoric sites. Sites discovered in this manner will be immediately protected from further disturbances (see FEIS, Appendix B).

## 6 IMPLEMENTATION

CBP has determined that the decision to select Alternative 3 with modifications is consistent with all laws, regulations, and agency policy. CBP has considered reasonably foreseeable activities and potential cumulative effects. CBP believes that the decision provides for the best management activities that respond to the purpose and need and issues identified in the development of the project.

---

<sup>22</sup> U.S. Department of Agriculture Forest Service. 2013. *Forest Plan Monitoring and Evaluation Report, Fiscal Years 2010-2013, Bitterroot National Forest*, pp. 90–242. Available at: <http://www.fs.usda.gov/detail/bitterroot/landmanagement/planning/?cid=fseprd490792>. Accessed October 28, 2016.

<sup>23</sup> Foltz, R.B., K.A. Yanosek, and T.M. Brown. 2008. Sediment concentration and turbidity changes during culvert removals. *Journal of Environmental Management* 87:329–340.

<sup>24</sup> Foltz et al., 2008.



## 7 CONTACT INFORMATION

For more information concerning the Bog Creek Road Project, please contact Joseph Zidron at joseph.zidron@cbp.dhs.gov or (949) 643-6392.

### Approved by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title