February 1, 2024

Ranger Dan Pliley
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Bitterroot National Forest
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RE: Pre-scoping Comments Proposed Sheep Creek Mine Exploration

Dear Ranger Pliley,

Please include this letter as part of the Sheep Creek Mine project record.

Earlier this week, U.S. Critical Materials ("USCM") indicated on their webpage, that they intend to explore their Sheep Creek Rare Earth Element claims using ground disturbing methods in the summer of 2024. The webpage explained that it would be constructing and reconstructing roads, building drill pads and drilling at ten different sites within its 7 square mile mining claim. As such, we expect a Plan of Operations will be released soon. Given the possible use of existing expedited permitting procedures, we feel the need to proactively inform the permitting agencies regarding some preliminary concerns.

On January 23, 2024, USCM, the owners Sheep Creek Rare Earth Element deposit claim, posted an article on their website titled "EXPLORATION PROGRAM AND PLAN OF OPERATIONS IN 2024." The article stated,

> Re-opening old forest roads and constructing new access roads, building drill-pads, and the impacts to forest well-being that could result from these activities will require review and permission by the US Forest Service in conjunction with the State of Montana Department of Environmental Quality.

(https://uscriticalmaterials.com/exploration-program-and-plan-of-operations-in-2023/). A few days later, the article was abruptly taken down which not only

decreased to the already stymied ability for the public to stay informed, but also contributed to the public distrust of Company.

As a preliminary matter, we request the Forest Service's Sheep Creek mine project webpage better facilitate informing the public in a timely way, without the need for submission of a Freedom of Information Act request. We are still waiting for two overdue FOIA responses with relevant information; one was due on 4/24/23 and another was due one due on 11/15/23. Expedited permitting processes without expedited public information and FOIA processes short-changes meaningful public involvement. Please provide all information and record to date on the Sheep Creek mine project page.

Ground disturbing exploration activities will trigger the need for National Environmental Policy Act ("NEPA") public involvement by the permitting agencies. We understand that the process involves the Company submitting an Exploration Plan of Operations to the Bitterroot National Forest, West Fork Ranger District. This could initiate an exchange of deficiency letters between the agencies and the Company culminating in an Exploration Plan of Operations released for an official public comment period of unknown duration. The Sheep Creek mine project and its likely connected actions will have multiple extraordinary circumstances that will result in significant averse impacts to the human environment. Thus, a categorical exclusion of NEPA is not appropriate for this project. Because the Forest Service may inappropriately utilize the use of a categorical exclusion to approve this project, which will result in a limited to non-existent opportunity to participate in the public process, we submit these comments in the abundance of caution. We ask that these pre-scoping comments be taken into consideration prior to and during the Forest Service's approval process.

Further, we believe the cost of processing mineral exploration and mining proposals, including the cost of NEPA process should be paid by the Company submitting the proposal. Existing statutory authority authorizes Federal agencies to charge for work it performs to provide a service or benefit to identifiable entities. A new rule is in process. The Minerals Cost Recovery proposed rule is available for review in the Federal Register.[1] This commonsense approach should be disclosed and adopted immediately in processing USCM exploration proposals.

[1] *See* https://www.federalregister.gov/documents/2023/06/13/2023-11622/minerals-costrecovery#:~:text=The%20Forest%20Service%20proposes%20regulations%20to%20impose%20new,analysis%2C%20monitoring%20authorized%20activities%2C%20and%20other%20processin g-related%20costs

In terms of impacts to the human environment, the location of this project introduces risks to public values that deserve special management consideration early in planning. The deposit is at the very head of the West Fork of the Bitterroot River. The river is designated by the U.S. Fish and Wildlife Service as critical habitat for bull trout and is thus subject to Endangered Species Act ("ESA") special consideration. Bull trout core populations in the West Fork Bitterroot River area are already declining primarily due to the curtailment and degradations of their habitat. Resident bull trout in headwater streams require deep pools and instream cover. Many of these habitat features are dependent on watershed conditions as a whole. Mining activities and exploring activities in or close to bull trout habitat will ultimately lead to a further decline and probable extirpation of these populations. The Agency must analyze the direct, indirect, and cumulative impacts to bull trout including impacts to the Bitterroot population as a whole and further must demonstrate compliance with all applicable state and federal standards that protect this species and its habitat.

The economic value of trout fishing on the Bitterroot is very high. It is home to several sport fishing trout species, westslope cutthroat, rainbow and brown. Judging from the West Fork in particular, these species appear to belong to a family of golden trout that have contributed enormously to the local tourism economy and real estate values. The fishing economy is sustainable, locally owned, and dispersed across many local beneficiaries, unlike the proposed foreign owned Sheep Creek mine.

Moreover, Painted Rocks reservoir, a few miles below the mine site, provides reserved instream flow into the West Fork during late-season low flows. This supports irrigation and helps make the West Fork fishery a trout stronghold by adding cold water from the reservoir to the late season warmed river water. Pollution of Painted Rocks would be a big risk to existing locally owned, proven-sustainable, fishing industry as well as local irrigated agriculture. Milltown dam, east of Missoula, demonstrated the unfortunate role of acting as a tailings impoundment for both decades-long chronic mining-derived water pollution as well as a backup for catastrophic pollution when the Mike Horse mine tailings dam failed. The values at risk at Painted Rocks deserve special consideration early in the planning process. The Agency must analyze the impacts the mine will have on

all aspects of the Bitterroot River fisheries including economic values, water quality, impacts to agriculture, tourism, and habitat degradation and must further demonstrate compliance with all state and federal standards relating to these factors.

U.S. Critical Materials' mining claims include a wildlife linkage corridor along the Montana/ Idaho divide from the Lost Trail corridor hub to the east connecting to the River of No Return and Selway Bitterroot Wilderness areas to the west. This area, including the Allan Mountain Inventoried Roadless Area ("IRA") is an important corridor for grizzly movement into a federally designated Bitterroot Ecosystem Recovery Zone (see attached linkage map below). The recovery of grizzly bears within the Bitterroot Ecosystem Recovery Area depends on functional connectivity between all other Recovery Zones including the Northern Continental Divide Ecosystem, Greater Yellowstone Ecosystem, and the Cabinet-Yaak and Selkirk Ecosystems. In fact, the U.S. Fish and Wildlife Service is currently considering plans to take a more active role in the recovery of grizzly bears in the Bitterroot. The proposed mine would undoubtedly impact the recovery of grizzly bears in the area. This connectivity corridor situation deserves special consideration early in the planning process, and must be seriously considered when analyzing direct, indirect and cumulative impacts of this project. We also request a map showing verified grizzly bear occurrence within 100 miles of the project site.

Many other iconic species reside in or move through the proposed project area, including the ESA listed wolverine and Canada lynx, as well as species of conservation concern like rocky mountain sheep, elk, mountain goats, and Northern Rockies fisher. The value of this linkage corridor to biodiversity is vital to the survival and continued viability of these species. The potential damage from exploration roads and human activity, let alone from possible mining activities that would occur at this very valuable and vulnerable location would be immense.

Below are excerpts from the Council on Environmental Quality, Guidance for Federal Departments and Agencies on Ecological Connectivity and Wildlife Corridors, March 21, 2023 which should be considered and applied in analyzing impacts from the Sheep Creek Mine:

Since connectivity is vital to ecosystem health and functions, it is significant to humans as well and supports the strong cultural and spiritual connections that communities have to nature. (p.1)

To the maximum extent practicable, Federal agencies are expected to advance the objectives of this guidance by developing policies, through regulations, guidance, or other means, to consider how to conserve, enhance, protect, and restore corridors and connectivity during planning and decision-making, and to encourage collaborative processes across management and ownership boundaries. (p.2)

Examples of focal areas where connectivity and corridors should be considered early in planning, funding, and decision-making include, but are not limited to:
…

Hard rock mining and mineral exploration and development planning and permitting. (p.4)

It is important to consider how connectivity and corridors can be promoted early in planning processes… (p.5)

Best Practices: Agencies should seek to incorporate these best practices into planning and decision-making as they take steps to advance the objectives of this guidance:

- Elevating the conservation, enhancement, protection, and restoration of connectivity and corridors as a programmatic goal.
- Planning at the scale of landscapes, waterscapes, or seascapes rather than at the scale of an individual project.
- Applying ecosystem-based conservation, enhancement, protection, and restoration strategies, including using nature-based solutions.

…

> Avoiding or minimizing adverse impacts that would fragment habitat identified as a priority for connectivity or corridors, and where not possible, offsetting or compensating for these impacts.
> …
> Rehabilitating habitat damaged by natural or human impacts to facilitate continued Connectivity.
>
> Baseline information: Federal agencies should appropriately assess the public lands and waters they manage for connectivity and corridors values. Agencies should then incorporate consideration of connectivity and corridors into the guidance for planning, siting, operation, and maintenance of Federal investments, including renewable energy development and infrastructure. (p.6)
>
> During the review of major Federal actions under the National Environmental Policy Act of 1969, 42 U.S.C. § 4331 et seq., (NEPA), agencies should consider and be transparent about the positive or negative impacts of proposed actions and alternatives on connectivity and corridors. Through the NEPA review process, Federal agencies can consider measures to advance corridors and connectivity as components of proposed actions, alternatives to proposed actions, or mitigation for proposed actions' effects. (p.7)

Inventoried Roadless Areas, like the Allan Mountain IRA, are afforded special protection by law. Road construction and reconstruction are prohibited in the Allan Mountain IRA. We request a map depicting the claim boundaries in relation to the Allan Mountain IRA and demonstration that the project complies will all legal requirements of the IRA (*see* attached map below).

Avoidance of impacts should include avoidance of exploration related ground disturbing activities within the Allan Mountain IRA. We oppose drilling within the IRA. At a minimum, if drilling is permitted within the IRA, it should require helicopter mobilization rather than road construction.

Actinolite appears to occur in significant amounts in the host rock. Actinolite can occur as amphibole asbestos, like the tremolite amphibole asbestos at the Libby

vermiculite mine that has caused hundreds of human deaths. Amphibole asbestos is more toxic than other forms of asbestos. The host rock should be tested for the presence of asbestos prior to ground disturbing activities like road building or drilling for the purpose of human health protection.

During the exploration phase, groundwater at the site should be tested and characterized for chemistry. Also baseline monitoring of surface water chemistry in the West Fork, Sheep Creek, and Johnson Creek should be started during the exploration phase. Silt/sediment samples from Sheep Creek and the upper end of Painted Rocks reservoir should be tested for metals that may be coming from the mine site.

Pursuant to the Antiquities Act and in consultation with the Salish and Nez Perce tribes, a thorough archeological survey should be completed prior to any ground disturbing activities.

Finally, the project must comply with all Bitterroot National Forest Plan goals, objectives, and standards. In analyzing the project impacts, the Bitterroot National Forest must demonstrate compliance with all applicable goals, objectives and standards.

Thank you for considering these comments.

Signed,

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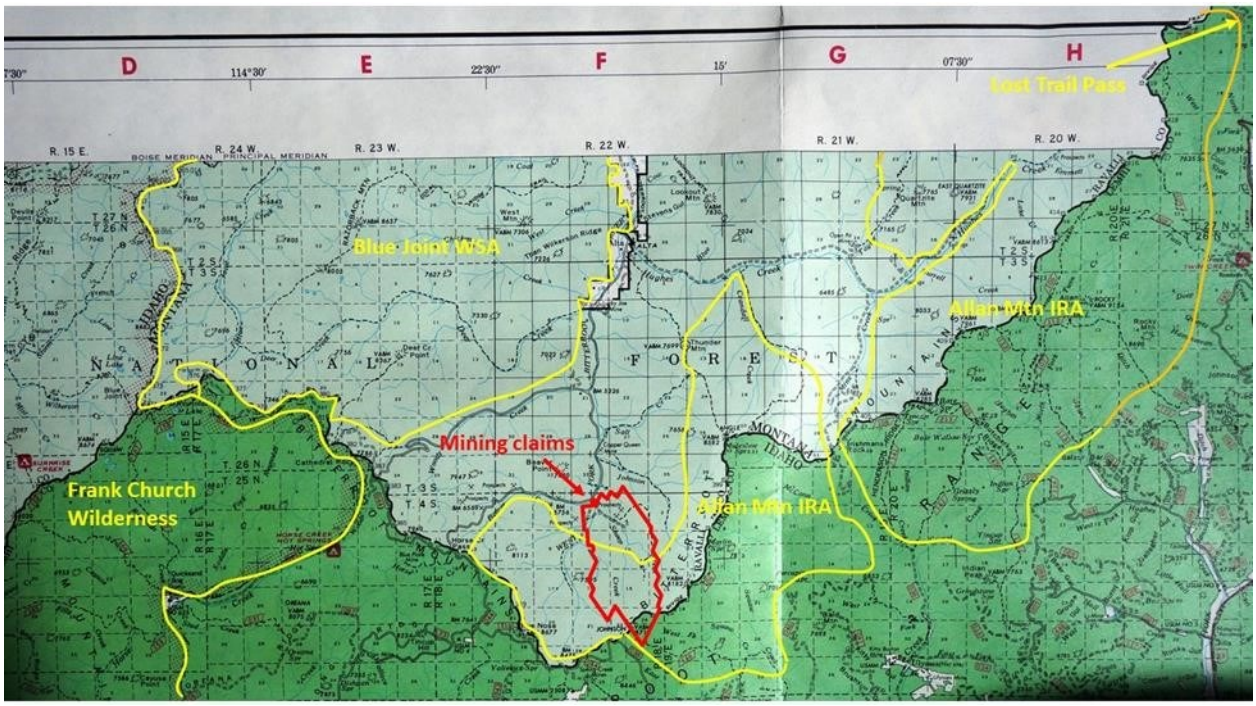
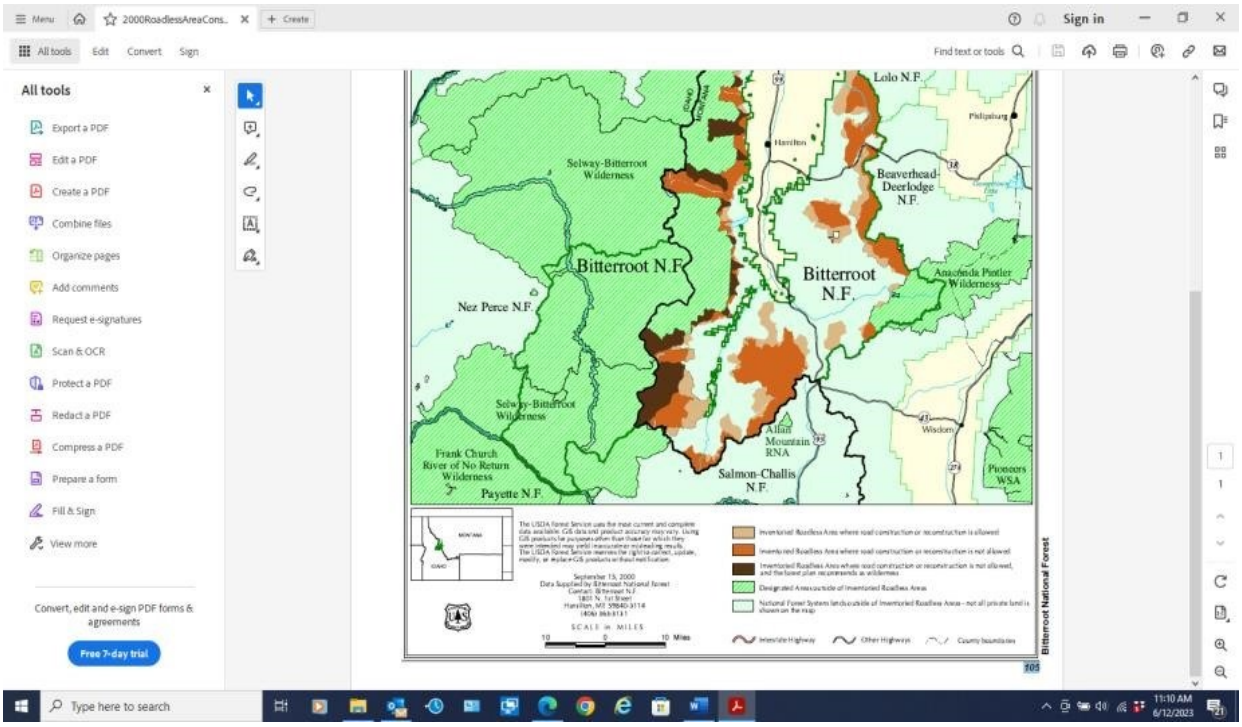
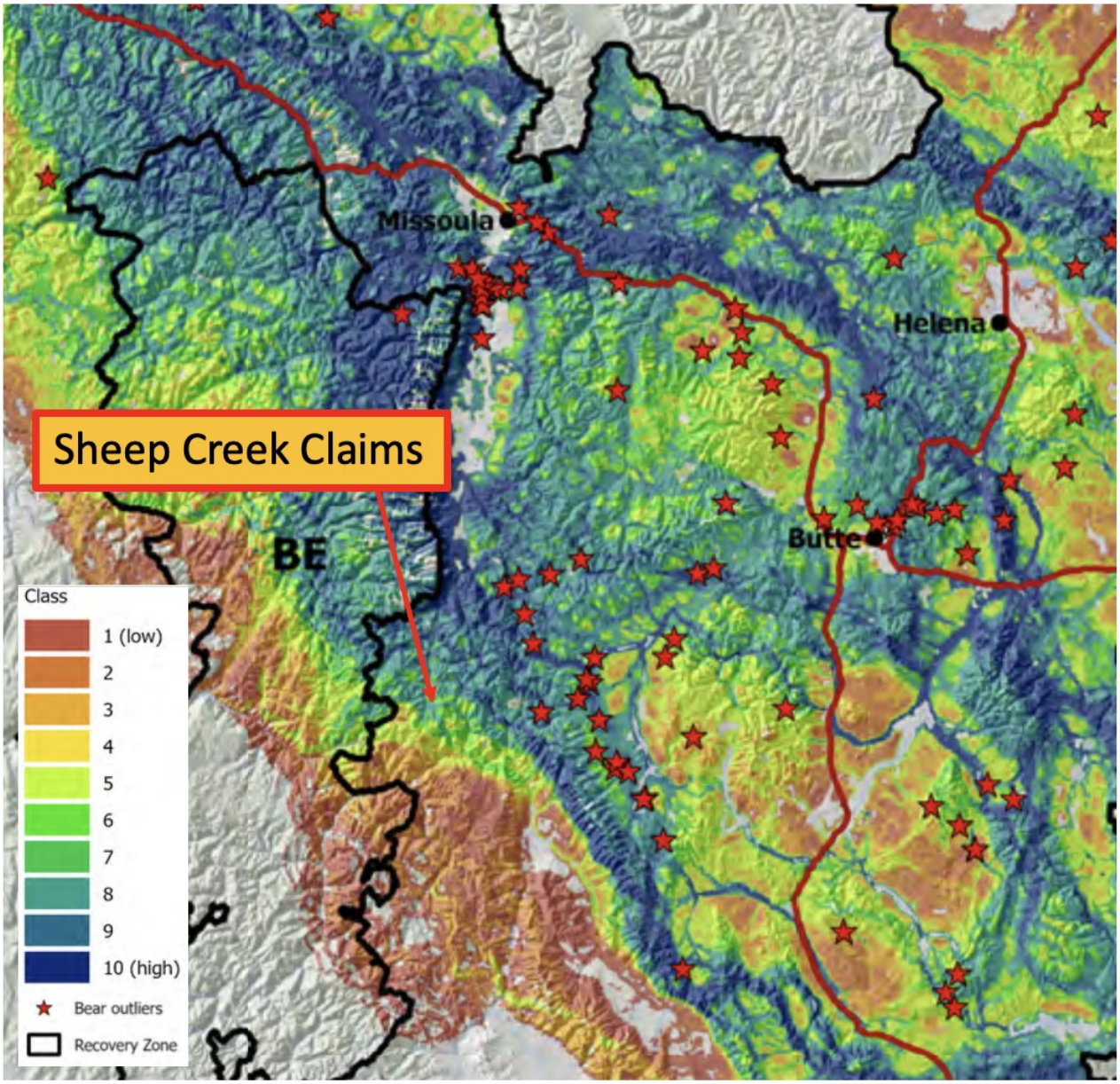
Referenced Maps



Wildland connectivity corridor

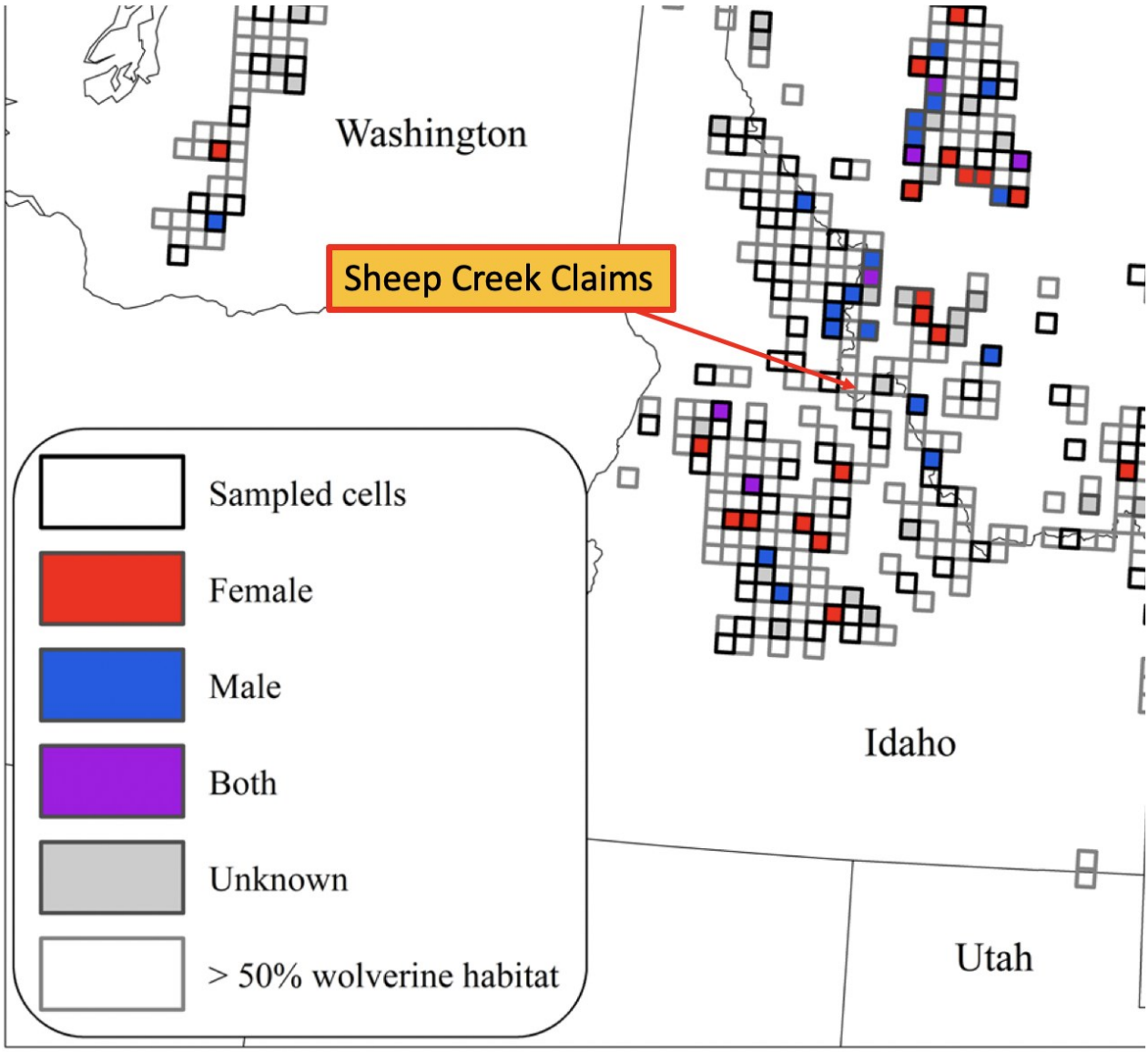


Map of BNF IRA categories (see map caption for source)



The above map is adapted from figure 3 in Sells et al, 2023. Stars indicate verified grizzly occurrences. Cooler colors indicate areas of less resistance to female grizzly movement. The figure shows that the mine claims lie in a connectivity pathway between the occupied Greater Yellowstone Ecosystem and the federally designated Bitterroot Ecosystem Grizzly recovery area (Sells et al., 2023)

Sells, S. N., Costello, C. M., Lukacs, P. M., Roberts, L. L., & Vinks, M. A. (2023). Predicted connectivity pathways between grizzly bear ecosystems in Western Montana. Biological Conservation, 284, 110199.



The above map is adapted from figure 3 in Lukacs et al., 2020. Cells indicate wolverine habitat. Filled cells indicate wolverine detections. The analysis in Lukacs et al., 2020 shows that greater than 50% of the area in the headwaters of the West Fork Bitterroot meets the criteria for wolverine habitat and that wolverines have been detected close to the mine claims (Lukacs et al., 2020).

Lukacs, P. M., Evans Mack, D., Inman, R., Gude, J. A., Ivan, J. S., Lanka, R. P., ... & Carroll, K. (2020). Wolverine occupancy, spatial distribution, and monitoring design. The Journal of Wildlife Management, 84(5), 841-851.

References:

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https://www.energy.gov/oe/fast-41

https://www.nationalparkstraveler.org/sites/default/files/attachments/230318-corridorsconnectivity-guidance-memo-final-draft-formatted.pdf

https://www.ecfr.gov/current/title-36/chapter-II/part-228