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April 5, 2016

Blue Mountains Restoration Strategy Team 72510 Coyote Road  
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Submitted via electronic mail to: r6restorationprojects@fs.fed.us

Subject: Proposed Action for the Blue Mountains Forest Resiliency Project - Ochoco, Umatilla, Wallowa-Whitman National Forests; Oregon and Washington

Dear Blue Mountains Restoration Strategy Team,

Hells Canyon Preservation Council (HCPC) and WildEarth Guardians respectfully submit these comments on the Blue Mountains Forest Resiliency Project. HCPC works to preserve the recreational and ecological values of the greater Hells Canyon-Wallowa and Blue Mountain Ecosystems through advocacy, education and collaboration, advancing science-based policy and protective land management. WildEarth Guardians works to protect and restore the wildlife, wild places, wild rivers, and health of the American West. Both groups actively participate in Forest Service proceedings and decisions concerning the management of public lands within the Ochoco, Umatilla, and Wallowa-Whitman National Forests. HCPC is also an active participant in the Wallowa-Whitman Forest Collaborative and the Umatilla Forest Collaborative.

#### A. Introduction

This project proposes approximately 613,000 acres of logging across 1.2 million acres of National Forest lands on the Ochoco, Umatilla, and Wallowa-Whitman National Forests in Oregon and Washington with the aim of improving forest resiliency. While we are encouraged to see Region 6 considering ecosystem restoration on a large scale for the first time with this project, we have several concerns with the Forest Service's proposed action. In general, we support landscape scale ecosystem restoration in dry forest types that addresses water quality and aquatic habitats, improves watersheds and forest resiliency, and reduces overall road density by returning expensive and deteriorating forest roads to the wild. This project does not appear to be the type of landscape scale restoration project we are able to support for several reasons.

First, the proposed action includes 183,300 acres of ecologically inappropriate logging in moist and cold forests. Second, this project proposes to: amend the Ochoco, Umatilla, and Wallowa-Whitman forest plans to allow for the cutting of large trees (>21" in diameter); commercial logging in designated old growth forests; exceedance road density standards and guidelines; and exempt the agency from meeting effective elk habitat standards in violation of the National Forest Management Act (NFMA). Third, the purpose and need and proposed action fail to address the vastly oversized, under-maintained, and unaffordable road system and would allow for an undisclosed amount of temporary road construction. Finally, the project may include logging

within non-inventoried roadless areas and potential wilderness areas to the detriment of wildlife, water resources, and overall forest resiliency.

As this project moves forward, we hope to work with the Forest Service and other stakeholders to develop alternatives to the proposed action that resolve these issues.

B. The Forest Service must comply with the requirements of the National Environmental Policy Act and prepare a robust environmental analysis

This project brings a new approach to planning under the National Environmental Policy Act (NEPA) with the aim of conducting an environmental analysis at a larger scale and faster pace than traditional planning and project implementation processes. The planning team intentionally designed this project at a large scale in order to explore new planning and analysis methods and create flexibility for local units during implementation. The draft environmental impact statement (EIS) is scheduled to be released this summer with the final EIS expected in December 2016. Each forest will sign separate Record of Decisions, but the analysis of effects will be completed in one EIS.

NEPA's purpose is "to foster excellent action," and the "NEPA process is intended to help public officials make decisions that are based on an understanding of environmental consequences, and take actions that protect, restore, and enhance the environment." 40 C.F.R. ? 1500.1(c). The NEPA process requires that "environmental information is available to public officials and citizens before decisions are made and before actions are taken." Id. at ? 1500.1(b). Federal agencies must gather and disclose information during the NEPA process, which "must be of high quality." Id. "Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." Id. While we support NEPA efficiencies, any innovative approaches to planning must still meet the rigorous requirements of the NEPA and "foster excellent action." We are concerned that the ambitious scale and timeframe of this project will severely hamper the agency's ability to meet its obligations under applicable statutes and regulations.

1. The purpose and need, as drafted, does not take into account applicable statutory and regulatory requirements

The statement of purpose and need for this project fails to acknowledge the large gap between existing open road densities and the open road density forest plan direction for the tri-forests. It does not recognize the Forest Service's statutory duty to follow forest plan direction, consider each forest's Travel Analysis Reports, and identify the Minimum Road System needed within the project area.

An accurate statement of purpose and need is central to crafting an adequate EIS because it will provide the guideposts for the analysis of the proposed action, alternatives, and effects (40 C.F.R. ?

1502.13) and dictates the range of "reasonable" alternatives. See, e.g., Klamath-Siskiyou Wildlands Center v. Graham, 899 F. Supp. 2d 948, 958 (E.D. Cal. 2012). Yet the statement of purpose must not be so narrow as to artificially limit the alternatives considered. See, e.g., City of Carmel-by-the Sea v. U.S. Dep't of Transp., 123 F.3d 1142, 1155 (9th Cir. 1997). Courts evaluate a Statement of Purpose and Need under a reasonableness standard. Friends of Southeast's Future v. Morrison, 153 F.3d 1059, 1066-67 (9th Cir. 1998). One of the ways reasonableness is determined is by looking at whether an agency's underlying substantive duty informs the scope of the agency's NEPA analysis. See Westlands Water Dist. v. U.S. Dept. of Interior, 376 F.3d 853, 866 (9th Cir. 2004).

Here, the Forest Service is proposing to increase resiliency across the Blue Mountain ecoregion without fulfilling its substantive duty to address its over-sized road system under the Travel Rule and Forest Plan management direction. See 36 C.F.R. 212.5. The scoping notice states that "the project purpose and need is represented by differences between existing and desired conditions based on Forest Plan management direction." More broadly, the statement of purpose and need provides that there is a need to:

- \* Reduce closed-canopied forest stands in dry forests;
- \* Maintain and increase old forests;
- \* Increase fire tolerant tree species and large tree dominated stands;
- \* Restore forest patterns that are more reflective of historical conditions including reestablishing historic openings and grasslands;

- \* Enhance landscape resiliency;
- \* Increase firefighter safety;
- \* Enhance the diversity of habitat conditions;
- \* Enhance the diversity and quality of habitat conditions across the planning area to improve overall abundance and distribution of wildlife and wildlife habitat;
- \* Restore tribal treaty resources;
- \* Maintain and enhance resources of high social value and support local economies;
- \* Improve existing road networks to provide access for forest treatments while meeting forest plan standards and guidelines as well as Endangered Species Act consultation guidance;
- \* Build and strengthen relations among National Forest stakeholders; and
- \* Reduce fuel loading in strategic locations to promote safe and effective use of planned and unplanned fire.

The identified purpose and need fails to acknowledge the large gap between existing road densities and the road density forest plan direction for the tri-forests along with the Forest Service's statutory duty to meet forest plan direction, or consider the forest's Travel Analysis Reports and identify the Minimum Road System within the project area. The statement of purpose and need should be revised to reflect this difference in the current and desired condition of the road networks within the project area.

2. The Forest Service must consider a reasonable range of alternatives to the proposed action

NEPA requires that federal agencies provide a detailed evaluation of alternatives to the proposed action in every NEPA document. 42 U.S.C. ? 4332; 40 C.F.R. ? 1502.14(a). This discussion of alternatives is essential to NEPA's statutory scheme and underlying purpose. See, e.g., *Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988), cited in *Alaska Wilderness Recreation & Tourism*

*Ass'n v. Morrison*, 67 F.3d 723, 729 (9th Cir. 1995). Indeed, NEPA's implementing regulations recognize that the consideration of alternatives is "the heart of the environmental impact statement." 40 C.F.R. ? 1502.14. Therefore, the Forest Service must "[r]igorously explore and objectively evaluate all reasonable alternatives" in order "to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of [the agency's] actions upon the quality of the human environment." 40 C.F.R. ?? 1502.14(a), 1500.2(f). We ask that the Forest Service develop an alternative to the proposed action that is compliant with all applicable laws and regulations and responds to each of the issues raised in this letter.

3. The Forest Service must consider the best available science and give a hard look

The Forest Service is required to consider best available scientific information. 36 C.F.R. ? 219.3. It must also take a hard look at the environmental consequences of the decision. NEPA's hard look at environmental consequences must be based on "accurate scientific information" of "high quality." 40 C.F.R. ? 1500.1(b). Essentially, NEPA "ensures that the agency, in reaching its decision, will have available and will carefully consider detailed information concerning significant environmental impacts." *Robertson v. Methow Valley Citizens Council*, 490 U.S. at 349. The Data Quality Act expands on this obligation, requiring that influential scientific information use "best available science and supporting studies conducted in accordance with sound and objective scientific practices." *Treasury and General Government Appropriations Act for Fiscal Year 2001*, Pub.L. No. 106-554, ? 515.

a. Treatments must be ecologically appropriate based on forest type - not all forests in the Blue Mountains are in need of restoration to remedy the effect of past fire suppression and other management activities

The need for forest restoration to undo the effects of past fire suppression is often invoked in fire policy discussions, yet only some landscapes need such restoration (Schoennagel et al. 2004).<sup>1</sup> Restoration is often appropriate in dry forests where logging and fire suppression since the 1950s have contributed to a change in forest conditions. The increased and more continuous fuel loads have shifted fires from past frequent low-severity to present-day high-severity events (Stephens et al. 2013,<sup>2</sup> Hessburg et al 2015)<sup>3</sup>. For example, in some forests dominated by ponderosa pine, thinning and prescribed fire can help restore low tree density, reduce fuel continuity, lower fire severity, and provide important ecosystem services such as watershed protection, climate modulation, wildlife habitat, scenery, recreational opportunities, and wood products.

In contrast to dry and formerly open low-elevation forests, moist and cooler high-elevation forests naturally support high tree densities and high severity fires. Here, forest densities have changed little from their pre-suppression-era condition; therefore, such restoration is not needed. A large portion of forests in the Blue Mountains fall in between these two extremes, and the restoration need in

1 Schoennagel, T., T.T. Veblen, W.H. Romme. 2004. The interaction of fire, fuels and climate across Rocky Mountain forests. *BioScience*. 54(7) 661-676.

2 Stephens, S.L., J. K. Agee, P. Z. Ful?, M. P. North, W. H. Romme, T. W. Swetnam, M. G. Turner, 2013. Managing forests and fire in changing climates. *Science*. 342 (6154): 41-42.

3 Hessburg, P.F., A.J. Larson, D.J. Churchill, R.D. Haugo, C. Miller, T.A. Spies, M.P. North, N.A. Povak, R.T. Belote, P.A. Singleton, W.L. Gaines, R.E. Keane, G.H. Aplet, S.L. Stephens, P. Morgan, P.A. Bisson, B.E. Rieman, R.B. Salter, G.H. Reeves. 2015. Restoring fire-prone Inland Pacific landscapes: Seven core principles. *Landscape Ecology*. 30:1805-1835.

such mid-elevation mixed-severity-fire forests is highly variable. Climate change may also render restoration less important than adaptation and mitigation in many natural systems, since future environmental conditions may or may not resemble those of the past. In short, not all forests are equally "out of whack" due to past fire suppression, and the need for restoration is not universal.

We ask that the agency develop at least one alternative that focuses all logging in the dry low- elevation forests that are unequivocally in need of restoration and where there is broad social agreement for the need to actively manage and restore these forests.

b. Forest Service should use the distance banding approach when determining impacts to elk

Thomas, et al. (1988),<sup>4</sup> developed a Habitat Effectiveness Index (HEI) model for estimating elk habitat effectiveness on the landscape. This HEI was incorporated into the current forest plans for the Ochoco, Umatilla and Wallowa-Whitman National Forests using seasonal restrictions, cover/forage requirements and road density standards and guidelines. There are, however, more current methods to evaluate project impacts on elk habitat and its effectiveness.

For example, recent scientific information highlights the importance of distance from open motor vehicle routes (Rowland et al. 2000;<sup>5</sup> Rowland et al. 2005).<sup>6</sup> As Rowland et al (2005) report:

A plethora of studies have demonstrated an increasing frequency of elk occurrence or indices of elk use, such as pellet groups, at greater distances from open roads (defined here as any road where motorized vehicles are allowed). This response varies in relation to traffic rates (Wisdom 1998, Johnson et al. 2000, Ager et al. 2003), the extent of forest canopy cover adjacent to roads (Perry and Overly 1977, Lyon 1979, Wisdom 1998, Wisdom et al. 2004b), topography (Perry and Overly 1977, Edge and Marcum 1991), and type of road (e.g., improved versus primitive; Perry and Overly 1977, Lyon 1979, Witmer and deCalesta 1985, Marcum and Edge 1991, Rowland et al. 2000, Lyon and Christensen 2002, Benkobi et al. 2004), which also correlates with traffic rates

Not only does the more recent scientific information identify open motor vehicle routes and the resulting impacts on the availability of forage as key determinates of habitat suitability, it also suggests a distance-band approach be used to address the impacts in addition to road densities. A method to evaluate effects of roads on elk using a distance-band approach has been suggested both

4 Thomas, J. W., D. A. Leckenby, M. Henjum, R. J. Pedersen, and L. D. Bryant. 1988. Habitat effectiveness index for elk on Blue Mountain winter ranges. U.S. Department of Agriculture, Forest Service, General Technical Report PNW-GTR-218, Portland, Oregon.

5 Rowland, M. M., M. J. Wisdom, B. K. Johnson, and J. G. Kie. 2000. Elk distribution and modeling in relation to roads. *Journal of Wildlife Management* 64:672-684.

6 Rowland M. M., M. J. Wisdom, B. K. Johnson, and M. A. Penninger. 2005. Effects of Roads on Elk: Implications for Management in Forested Ecosystems. Pages 42-52 in Wisdom, M. J., technical editor, *The Starkey Project: a synthesis of long-term studies of elk and mule deer*. Reprinted from the 2004 Transactions of the North American Wildlife and Natural Resources Conference, Alliance Communications Group, Lawrence,

Kansas, USA.

by Roloff (1998)<sup>7</sup> and by Rowland et al. (2000), as described above. Based on radiolocations of elk at the Starkey Experimental Research Station, Rowland et al. (2000) found no relation between number of elk locations and habitat effectiveness based on open road densities. By contrast, the authors found a strong, linear increase in selection ratios of elk as distance to roads increased. Specifically, the benefits of closing roads in order to create a spatial separation between elk habitat and roads include:

- \* Decreased energy expenditure by elk, a result of less frequent disturbance by motorized vehicles, with potential improvements in animal performance.
- \* Increases in total amount of effective habitat for elk in the area affected by the closures.
- \* Increased hunting opportunities on public lands, when roads are closed on public lands adjacent to comparatively less-roaded private lands, thereby enticing elk to remain on public lands rather than moving to private lands where hunting may not be allowed or is prohibitively expensive
- \* Decreased damage to crops and haystacks from elk on private lands, due to decreased disturbance from traffic on public land, which in turn causes elk to remain on public land longer during the fall and winter seasons.
- \* Improvements in diet quality when elk are able to forage undisturbed in areas previously avoided due to excessive motorized traffic; these changes may translate into improvements in animal fitness and population performance.
- \* Increased hunter satisfaction from the opportunity to hunt in a roadless area or the use of all-terrain vehicles on closed roads or other "off-highway" sites.
- \* Decreased vulnerability of elk during hunting seasons, due to fewer hunters willing to hunt without a vehicle or able to access the area.

We request that the distance band approach be used for the Forest Resiliency project analysis. Elk have great cultural and economic significance to local communities, First Nations people, and the Nation. Impacts on elk from project activities warrant in depth analysis and the use of the best available science.

c. The Forest Service must consider a broad array of impacts related to forest roads in its NEPA analysis

National Forests provide a range of significant environmental and societal benefits, including clean air and water, habitat for myriad wildlife species, and outdoor recreation opportunities for millions of visitors and local residents each year. See 66 Fed. Reg. 3244, 3245-47 (Jan. 12, 2001) (Preamble to Roadless Area Conservation Rule describing key ecosystem and other services of roadless National

<sup>7</sup> Roloff, G. J. 1998. Habitat potential model for Rocky Mountain elk. In Proceedings 1997 Deer/Elk Workshop, Rio Rico, Arizona, ed. J. C. deVos, Jr., 158-175. Phoenix: Arizona Game and Fish Department.

Forest lands). The Forest Service's extensive and decaying road system, however, poses a growing liability to the future ability of the National Forests to provide critical environmental, ecosystem, and recreation services. Collectively, the National Forest System contains over 370,000 miles of roads (not even counting the tens of thousands of additional miles of unclassified, non-system, temporary, and user-created roads). That is nearly eight times the length of the entire U.S. Interstate Highway System. The National Forest road system is primarily a byproduct of the big timber era. The system is often convoluted, unmanageable, and ineffective at meeting 21st century transportation needs.

Much of the system is in serious disrepair: as of the end of Fiscal Year 2014, the National Forest road system had a 2.9 billion dollar maintenance backlog. USDA, Forest Service, National Forest System Statistics 2014.

Well-sited and maintained roads provide important services to society. But the adverse ecological and

environmental impacts associated with the Forest Service's massive and deteriorating road system are well documented. Those adverse impacts are long-term, occur at multiple scales, and often extend far beyond the actual "footprint" of the road. A 2014 literature review from The Wilderness Society surveys the extensive and best available scientific literature-including the Forest Service's General Technical Report synthesizing the scientific information on forest roads (Gucinski 2001)-on a wide range of road-related impacts to ecosystem processes and integrity on National Forest lands. See The Wilderness Society, Transportation Infrastructure and Access on National Forests and Grasslands: A Literature Review (May 2014).

d. The baseline road system must be accurately defined with the project area

On many past projects, the Forest Service considers the baseline and no-action alternative one and the same. But that does not have to be the case. See, e.g., FSH 1909.15, 14.2; CEQ's Forty Most Asked Questions (1981), #3 (explaining "[t]here are two distinct interpretations of 'no action'; one is 'no change' from current management direction or level of management intensity," and the other is if "the proposed activity would not take place"). If current management direction continued on a forest, the Forest Service would continue not to recognize decommissioned roads and unauthorized roads as part of the road system. Of course, these roads would still have impacts. Disclosure of the number and location of decommissioned routes and unauthorized routes, as well as the impacts of those routes, is a necessary component of the no-action alternative. But it is separate and distinct from the identification of the baseline open route system.

The official open Forest Service road network should be the only system considered as the baseline open route system for an action. The baseline should not include decommissioned routes or unauthorized routes.

4. The forthcoming EIS must analyze all reasonably foreseeable direct, indirect environmental impacts at the site-specific scale

NEPA requires full analysis and disclosure of all foreseeable direct and indirect environmental impacts, and a description of the location and activities to be undertaken - at the site-specific level 40 C.F.R. ? 1508.8. Direct effects are those caused by the action that occur at the same time and place. 40 C.F.R. ? 1508.8(a). Indirect effects are those caused by the action that are later in time but are still reasonably foreseeable. Id. ? 1508.8(b). These include growth-inducing effects, i.e. increased demand and other effects related to induced changes in land use, population density, and related

effects on air and water and other natural systems. Id. The forthcoming EIS must analyze the following direct and indirect environmental impacts at the site-specific level.

a. Impacts to roadless areas including areas less than 5000 acres

Among the resources to be managed on federal lands, lands with statutorily-defined wilderness characteristics are of particular importance. Oregon Natural Desert Association v. Bureau of Land Management, 625 F.3d 1092, 1099-1100 (9th Cir. 2010). Roadless areas contain certain attributes with independent environmental significance not found in areas of national forests fragmented by roads, including, but not limited to, high quality and undisturbed soil, water, and air; sources of public drinking water; diversity of plant and animal communities; habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land; primitive, semi-primitive, non-motorized and semi-primitive motorized classes of dispersed recreation; reference landscapes; natural appearing landscapes with high scenic quality natural integrity and apparent naturalness, solitude and remoteness; and traditional cultural properties and sacred sites. Lands Council v. Martin, 529 F.3d 1219, 1230 (9th Cir. 2008) (explaining that roadless areas are environmentally significant because "water resources, soils, wildlife habitat, and recreation opportunities, possess independent environmental significance"). Roadless areas are important because of the potential for designation as wilderness areas under the Wilderness Act of 1964, 16 U.S.C. ?? 1131-1136. Id (explaining that wilderness designation is a reason that roadless areas are "environmentally significant").

NEPA requires the Forest Service to consider the environmental impacts of a proposed project on all roadless areas including inventoried and non-inventoried. The agency must analyze the attributes of such areas, including water resources, soils, wildlife habitat, and recreation opportunities, and discuss the effects of the proposed logging on these attributes. Smith v. U.S. Forest Service, 33 F.3d 1072 (9th Cir. 1994); National Audubon Society v. United States Forest Service, 46 F.3d 1437 (9th Cir. 1993). Additionally, the agency is required to discuss a project's impacts on areas of "sufficient size" for future

wilderness designation, not just those over 5000 acres in size. *Lands Council at 1231*, citing 16 U.S.C. ? 1131(c).

If the agency uses FSH 1909.12 Chapter 70 to identify lands with roadless characteristics, the current directives must be used. Whatever method is used, site specific field verification must be completed as part of the identification process.

b. Impacts to soil conditions

Logging activities have significant direct and indirect impacts on the surrounding land and soils. Soil conditions strongly influence long-term forest productivity, the composition and condition of vegetation, rates of vegetative recovery after disturbance, sediment flux, and the quantity, timing, and quality of water produced by major watersheds, which in turn affect aquatic population and habitats. It is well established that soil compaction causes long-term losses in soil productivity and is a major soil productivity problem on public lands that have been subjected to logging and other high impact uses (Beschta et al., 2004).<sup>8</sup> Soil compaction reduces the ability for plant roots to develop

8 Beschta, R.L., J.J. Rhodes, J.B. Kauffman, R.E. Gresswell, G.W. Minshall, J.R. Karr, D.A. Perry, E.R. Hauer, and C.A. Frissell. 2004. Postfire management on forested public lands of the western USA. *Conservation Biology* 18: 957-967.

successfully and access subsoil moisture and nutrients, thus increasing stress on the plant and lowering its chances of survival.

The Ninth Circuit has held that analysis of effects of logging activities on soil conditions based on assumptions is insufficient. *Ecology Center, Inc. v. Austin*, 430 F. 3d 1057, 1069 (9th Cir. 2005). In *Ecology Center*, the plaintiffs raised concerns regarding the impact of the proposed logging activities on soil conditions and questioned the reliability of the Service's soil quality analysis claiming that the Forest Service's soil quality analysis was inadequate because it employed an unreliable method for determining the percentage of detrimental soil conditions in the project area. The agency had estimated soil conditions on the basis of maps, samples from throughout the Forest, aerial reconnaissance, and computer modeling, but did not verify those estimates by directly observing soil conditions in the project area. *Id.* In this case, the Forest Service must analyze all direct and indirect impacts to soil based on field verified soil surveys within the project area.

c. Impacts to sensitive, MIS, and threatened and endangered species

The Forest Service has indicated that the project area will not be surveyed as part of the environmental analysis. This does not comply with the requirement that NEPA's hard look at environmental consequences must be based on "accurate scientific information" of "high quality," 40 C.F.R. ? 1500.1(b), or the requirement that all foreseeable direct and indirect impacts are analyzed and disclosed at the site-specific level. 40 C.F.R. ? 1508.8. Monitoring data for the presence of threatened and endangered species (TES) must be gathered prior to environmental analysis and incorporated into that process. The Forest Service must additionally demonstrate that project level surveys have been conducted and current population data gathered for forest plan Management Indicator Species (MIS).

In some instances, a habitat model may be used as a proxy to determine MIS viability in lieu of surveys. *Inland Empire Pub. Lands Council v. United States Forest Serv.*, 88 F.3d 754, 760 n.6 (9th Cir. 1996). However, where the Forest Service's "methodology does not reasonably ensure viable populations of the species at issue," using habitat evaluation as a proxy for monitoring population trends can be deemed arbitrary and capricious. See *Idaho Sporting Congress, Inc. v. Rittenhouse*, 305 F.3d 957, 972 (9th Cir. 2002). In the absence of an adequate evaluation of the project's impacts on fish and wildlife species, the public is unable to verify whether the Forest Service can reasonably ensure species diversity and viability will be maintained and all legal obligations under the Endangered Species Act and NFMA will be met.

e. Impacts to sensitive plant, lichen, bryophyte and fungal species

The species rich forests of the Blue Mountains contains many sensitive plants, lichen, bryophytes and fungi-some that have yet to be discovered. These species are poorly adapted to frequent disturbance-especially, in

the moist mixed conifer forests of the Northern Blues-as they have evolved with an infrequent moderate to high severity disturbance regime. We request that new botanical, moss, bryophyte, and fungi surveys are completed for every unit and that the results of these surveys are disclosed in the pending environmental analysis.

f. Impacts to wildlife and wildlife connectivity

One of HCPC's top concerns is the impact of agency management activities on wildlife connectivity. For many of our native wildlife species, survival depends on movement - whether it be day-to-day movements, seasonal migration, gene flow, dispersal of offspring to new homes, recolonizing an area after a local extirpation, or the shift of a species' geographic range in response to changing climate conditions. For most animals and plants, all of these types of movement require a well-connected natural landscape. See Western Governors' Association's, Wildlife Corridors Initiative (June 2008 report), p.2.9 There is abundant scientific evidence that loss of habitat connectivity has profound negative impacts on fish, wildlife and plant populations. *Id.* at 3 (citing Wilcove et al. 1998, Crooks and Sanjayan 2006). Alarming, habitat loss and fragmentation is a cause of decline for about 83-percent of U.S. species. *Id.* at 4 (citing NatureServe and TNC 2000). As climate change accelerates and increases, protecting habitat connectivity is widely recognized as one of the best adaptation measures managers can take. This vital role that habitat connectivity plays in ensuring long-term species' viability and the disastrous effects of habitat fragmentation has inspired a growing call to action to address these issues through big-picture collaborative efforts. A primary example is the Western Governors' Association's (WGA) recent adoption of Policy Resolution 07-01 (adopted February 27, 2007), Protecting Wildlife Migration Corridors and Crucial Habitat in the West and preparation of the Wildlife Corridors Initiative (June 2008 report).

In the pending environmental analysis, we request that the Forest Service analyze wildlife movement throughout the project area and alter the proposed action to best accommodate wildlife needs. Connectivity needs to be considered for a wide variety of organisms, ranging from those extremely limited by mobility to big game. Movement to and from large core habitat areas should be consciously planned for. All roadless areas such as uninventoried roadless areas and any areas with potential wilderness quality should be protected. The functionality of riparian areas as wildlife corridors should be considered. While not all species would be covered by this approach, riparian areas are likely natural wildlife corridors where extra-large buffers or some other approach would help plan for day-to-day wildlife movement and dispersal needs.

The pending environmental analysis should also include a discussion of how this project may directly, indirectly, or cumulatively diminish habitat connectivity and contribute to further habitat fragmentation at the site-specific level. Failing to discuss this critical issue in the analysis will strongly suggest that the Forest Service failed to take the requisite 'hard look' at the environmental consequences of its actions, as required under NEPA.

g. Impacts to snag habitat

Snags are critically important for fish and wildlife habitat (many life functions), carbon storage, soil building, slope stability, and capture-store-release of water, nutrients, and sediment. At least one fourth of all bird species in western forests (McClelland et al. 1979)<sup>10</sup> and perhaps even as much as

<sup>9</sup><https://www.nature.nps.gov/biology/migratoryspecies/documents/WGAWildlifeCorridorsInitiative.pdf>

<sup>10</sup> McClelland, B.R., Frissle, S.S., Fischer, W.C., and Halvorson, C.H. 1979. Habitat management for hole-nesting birds in forests of western larch and Douglas-fir. *J. For.* 77: 480-483.

45 percent of native North American bird populations (Balda 1975;<sup>11</sup> Scott et al. 1980)<sup>12</sup> are snag- dependent; that is, they require the use of snags at some point in their life cycle. Of the 102 terrestrial vertebrate species that occur in Washington State, over half (56) nest or den only in (require) the boles of dead or dying trees. Wilhere 2003.<sup>13</sup> Moreover, an astounding two thirds of all wildlife species use deadwood structures or woody debris for some portion of their life cycles.

Brown 2002.<sup>14</sup> For birds in severely burned forests, the importance of snags goes well beyond the nesting needs of cavity-nesting species. At least 60 percent of the species that nest in severely burned conifer forests

use snags as nest sites, and virtually all those species nest only in or on snags. Hutto

Such facts are clearly the driving force behind the development of snag-retention guidelines for managed lands.

In the pending environmental analysis, we request a robust analysis of the existing snag resource and the effects of each alternative on that resource. The cumulative effects of logging, wildfire and post-fire logging, prescribed fire, and firewood gathering on the snag retention within the project area and tri-forests must also be clearly articulated and quantified.

h. Impacts to multistoried old forest

There is a high level of uncertainty with respect to the long-term ecological consequences of the Forest Service's strategy of converting old forest multi-story (OFMS) to old forest single story (OFSS). The Ninth Circuit has held that the Forest Service's failure to disclose the scientific uncertainty of its decisions to "treat" old growth forest violated NEPA. *Ecology Ctr., Inc. v. Austin*, 430 F.3d 1057, 1065 (9th Cir. 2005); *Lands Council v. McNair*, 494 F. 3d 771 (9th Cir. July 7, 2007). In *Ecology Center*, the Forest Service sought to "correct uncharacteristic forest development resulting from years of fire suppression." *Id.* at 1063. This "treatment" was "designed to leave most of the desirable old-growth trees in place and to improve their health." *Id.*

Although treatment may be designed to restore old-growth to 'historic conditions,' . . . this can be a misleading concept: for example, information regarding historic conditions is incomplete; altering particular sections of forest in order to achieve "historic" conditions may not make sense when the forest as a whole has already been fundamentally changed; many variables can affect treatment outcomes; and the treatment process is qualitatively different from the 'natural' or 'historic' processes it is intended to mimic.

11 Balda, R.P. 1975. The relationship of secondary cavity nesters to snag densities in western coniferous forests. U.S.D.A. Forest Service Wildlife Habitat Technical Bulletin 1, 37 pp.

12 Scott, V.E., J.A. Whelan, and P.L. Svoboda. 1980. Cavity-nesting birds and forest management. In *Management of western forests and grasslands for nongame birds: workshop proceedings*, February 11-14, 1980, Salt Lake City, Utah. Edited by R.M. DeGraff. U.S.D.A. Gen. Tech. Rep. INT-86, Fort Collins, Colo. pp. 311-324.

13 Wilhere, G. F. 2003. Simulations of snag dynamics in an industrial Douglas-fir forest. *Forest Ecology and Management* 174:521- 539.

14 Brown, T. K. 2002. Creating and maintaining wildlife, insect, and fish habitat structures in dead wood. General technical report PSW-GTR- 181:883-892. U.S. Department of Agriculture Forest Service, Albany, California.

15 Hutto, R.L. 1995. Composition of bird communities following stand replacement fires in northern Rocky Mountain (U.S.A.) conifer forests. *Conserv. Biol.* 9: 1041-1058.

*Id.* (citing Plaintiffs' arguments). The Ninth Circuit concluded that the Forest Service violated NEPA because it "treat[ed] the prediction that treatment will benefit old-growth dependent species as a fact instead of an untested and debated hypothesis" and it failed to "address in any meaningful way the various uncertainties surrounding the scientific evidence' upon which the decision to treat the [ ] old-growth rests." *Id.* at 1065. Although, the Ninth Circuit ultimately overruled *Ecology Center*, to the extent it suggested that the Forest Service always violates NEPA every time it fails to address some scientific uncertainty in its analysis, it reaffirmed that the agency must at least acknowledge and respond to comments by outside parties that reasonably state such uncertainties exist. *Lands Council v. McNair*, 537 F.3d 981, 1001 (9th Cir. 2008).

We do not doubt the severe deficiency in OFSS or the proposition that stands that were historically single-story may have shifted to more multi-storied conditions due to past management and fire suppression. However, we remain unconvinced that converting OFMS forest to OFSS stands is the appropriate solution, particularly when deficiencies exist in both forest types and the latter is simply more severe. This logic is akin to "robbing Peter to pay Paul."

i. Impacts to moist and cold forests

The proposed action includes 183,000 acres of logging within moist and cold forests. This action has a very high likelihood of increasing fire risk because the proposed commercial treatments will allow more solar radiation to penetrate into the otherwise shaded, mesic forest understory environment. Logging will also increase fine fuels both through felling large trees and by subsequent growth of the understory. When fuels reduction treatments are applied in the appropriate environment, they can be followed-up with prescribed fire. However, in many of the mesic/moist mixed-conifer and cold forests within the project area, prescribed fire fails to mimic the natural fire regime and is at risk of damaging many sensitive species. There are also many fiscal, temporal and social constraints on the use of prescribed fire. Much of the planned prescribed fire in the Blue Mountains is not carried out because of these limitations.

For these reasons, we request the development of an alternative that does not include any logging within moist mixed-conifer or cold forests. Any alternatives that propose logging within these forest types must look at the risk of the proposed treatments resulting in higher risk of uncharacteristic fire.

j. Impacts to Riparian Habitat Conservation Areas

Treatments within any category of Riparian Habitat Conservation Areas (RHCA) would be limited to prescribed fire and small diameter thinning (less than 9" in diameter) under all alternatives. While we are encouraged that the Forest Service is using a light touch within RHCAs in order to meet the project's objectives, we are concerned about the extent of the activities.

Land management activities often significantly increase sediment loads to channelized sediment sources. Logging-even if limited to small diameter trees-within RHCAs severely compromises the sediment retention abilities of these areas. It is widely recognized that the loss of vegetation in RHCAs reduces their sediment detention effectiveness. However, the loss of vegetation is not the only impact of logging in RHCAs. Logging compacts and disrupt soils, increasing runoff and

erosion. Instead of arresting upslope sediment, logged areas within RHCAs act as sources of elevated erosion and sediment delivery.

There is a building scientific consensus that PACFISH/ INFISH standards are inadequate in protecting RHCAs. On non-fish-bearing streams, RHCAs are only 150 feet from the edge of non-fish bearing perennial streams and only 100 feet wide around intermittent streams. As noted in the aquatic assessment for the Interior Columbia Ecosystem Management Project (ICBEMP) (Quigley and Alberide, 1997),<sup>16</sup> these widths are inadequate to protect these types of streams from increased sediment delivery from upslope sediment production. Specifically, this assessment noted that these smaller, non-fish bearing perennial and intermittent streams are:

- \* More affected by sedimentation from sediment production accelerated by upslope activities than larger streams (pp.1365-1366).
- \* A primary source of sediment supplied to fish bearing streams (p. 1366).
- \* Typically comprise the majority of the channel network and "...therefore strongly influence the input of materials to the rest of the channel system." (p. 1366)
- \* Highly vulnerable to the impacts of upslope activities, because the likelihood for discernible instream effects increases with slope steepness and the erodibility of sideslopes (p. 1367); these smaller headwater streams tend to have steeper and more erodible sideslopes (p. 1371).

Even the PACFISH/ INFISH RHCAs on fish-bearing streams are not adequate to fully protect streams under all conditions. Quigley and Arbelbide (1997) noted that 300 foot wide RHCAs around streams might not be adequate to prevent increased sediment delivery to streams in some areas.

There is a greater than 25 percent probability of sediment delivery to streams on a 30 percent slope with a 100-foot wide, fully functional, RHCA based on the analysis in Quigley and Arbelbide (1997). For slopes of 50 percent abutting intermittent stream channels, the aquatic assessment in Quigley and Arbelbide (1997) estimated buffer widths of more than 400 feet from each side of the stream would be needed to prevent sediment delivery in 95 percent of cases. The draft EIS for the ICBEMP included methods to expand RHCA

widths based on slope steepness, in order to provide more protection from sediment delivery to smaller streams. These methods result in RHCAs with widths significantly greater than 100 feet on intermittent streams with slopes greater than about 15 percent.

Other applicable scientific literature has noted RHCAs wider than those of PACFISH are necessary to protect aquatic resources. Damage to headwater streams and riparian areas not only degrades habitats in headwater streams, but downstream habitats as well, because headwater streams provide

16 Quigley, T.M., and S.J. Arbelbide, technical editors. 1997. An assessment of ecosystem components in the Interior Columbia Basin and portions of the Klamath and Great Basins, Volumes 1-4. General Technical Report PNW-GTR-405. USDA Forest Service, Pacific Northwest Research Station, Portland, Oregon.

most of the water and sediment for downstream reaches (Rhodes et al., 1994;17 Moyle et al., 1996;18 Erman et al., 1996).19 Due to their sensitivity, headwater streams need as much protection, or more, than larger downstream reaches if aquatic habitats and water quality at the watershed scale are to be protected (Rhodes et al., 1994; Moyle et al., 1996; Erman et al., 1996; Espinosa et al., 1997).20 Both Erman et al., (1996) and Rhodes et al., (1994) concluded, based on review of available information, that intermittent and non-fish-bearing streams should receive stream buffers significantly larger than those afforded by PACFISH/ INFISH. The pending environmental analysis must analyze and disclose the impacts of all proposed treatments, within and outside the RHCAs, on aquatic resources. We also request an alternative that contains no treatment activity within RHCA areas.

k. Impacts from temporary roads

The scientific literature suggests that mechanical fuels treatments aimed at reducing fire severity have so much inherent uncertainty in their effectiveness that the application should be limited and the most damaging activities such as temporary road building should be avoided (Crist et al. 2009,21 Noss et al. 2006,22 Rhodes et al. 2008).23 The following is an excerpt from "The Watershed Impacts of Forest Treatments to Reduce Fuels and Modify Fire Behavior" by Jonathan Rhodes, 2007.

Avoid practices that consistently cause severe and persistent watershed damage, including machine piling and burning and the construction of roads and landings, including "temporary" ones. The numerous negative effects of roads are one of the primary sources of aquatic and watershed damage on a continental scale. Additional road construction is inimical to reducing road effects. It also inexorably adds to the currently insurmountable backlog in needed, but deferred, road maintenance on existing roads (USFS et al., 1993; USFS, 2000b; Beschta et al., 2004).

Temporary roads are not temporary in impact. Temporary roads left in a state of non-use can have impacts on forests and soils that last for decades. The public often continues to use these roads long

17 Rhodes, J.J., McCullough, D.A., and Espinosa Jr., F.A., 1994. A Coarse Screening Process for Evaluation of the Effects of Land Management Activities on Salmon Spawning and Rearing Habitat in ESA Consultations. CRITFC Tech. Rept. 94-4, Portland, Or.

18 Moyle, P. B., Zomer, R., Kattelmann, R., & Randall, P., 1996. Management of riparian areas in the Sierra Nevada. Sierra Nevada Ecosystem Project: Final Report to Congress, vol. III, report 1. Davis: University of California, Centers for Water and Wildland Resources.

19 Erman, D.C., Erman, N.A., Costick, L., and Beckwith, S. 1996. Appendix 3. Management and land use buffers. Sierra Nevada Ecosystem Project Final Report to Congress, Vol. III, pp. 270-273. 20 Espinosa, F.A., Rhodes, J.J., and McCullough, D. A. 1997. The failure of existing plans to protect salmon habitat on the Clearwater National Forest in Idaho. J. Env. Management 49: 205-230.

21 Crist, M.R., T.H. DeLuca, B. Wilmer, and G.H. Aplet. 2009. Restoration of Low- Elevation Dry Forests of the Northern Rocky Mountains: A Holistic Approach. Washington, D.C.: The Wilderness Society.

22 Noss, R.F., J.F. Franklin, W.L. Baker, T. Schoennagel, P.B. Moyle. 2006. Managing fire-prone forests in the western United States. *Frontiers in Ecology and Environment* 4: 481-487.  
23 Rhodes, J. J., W. L. Baker. 2008. Fire Probability, Fuel Treatment Effectiveness and Ecological Tradeoffs in Western U.S. Public Forests. *The Open Forest Science Journal*. 1: 1-7.

after implementation of camouflaging and other activities designed to leave them in a state of non-use. As a result, soil compaction/disturbance and sedimentation impacts will continue to persist.

The permanent impacts of temporary road construction have been thoroughly documented (e.g., Beschta et al., 2004; Karr et al., 2004).<sup>24</sup> Such long-term damage has even been acknowledged by the USFS (Rhodes, 2007).

Additionally, the re-opening of closed or unclassified roads for access, and then re-closure following treatment activities has very serious ecological impacts. Extensive and intensive road reconstruction greatly increase road impacts on watershed systems, as documented, graphically in Karr et al (2004). Reconstruction impacts are extremely significant because the elevated sedimentation they cause is already a ubiquitous water quality problem throughout the West and a major cause of the loss of aquatic biodiversity.

The Proposed Action indicates that an undisclosed amount of temporary roads will be constructed and roads will be re-opened. We request that an alternative is developed that does not use any temporary roads or any closed roads requiring reconstruction. We recommend any potential units that can only be accessed with temporary roads should either be dropped and considered as wildlife refugia or be non-commercially treated by hand crews. We recommend the same regarding re-opening closed roads, unless there are roads which are currently causing resource damage and that could be restored. Finally, we request that any alternatives that propose temporary road building include a cost-benefit analysis of the purported benefits of the treatment weighed against the negative impacts to wildlife, soil structure, hydrology, from invasive weed spread from temporary road building and road reconstruction.

#### I. Impacts from forest roads

Erosion, compaction, and other alterations in forest geomorphology and hydrology associated with roads seriously impair water quality and aquatic species viability. *Id.* at 2-4. Roads disturb and fragment wildlife habitat, altering species distribution, interfering with critical life functions such as feeding, breeding, and nesting, and resulting in loss of biodiversity. *Id.* at 4-6. Roads facilitate increased human intrusion into sensitive areas, resulting in poaching of rare plants and animals, human-ignited wildfires, introduction of exotic species, and damage to archaeological resources. *Id.* at 6, 9, & Att. 1. Roads are also major vectors for spreading weeds.

A robust analysis under NEPA of the forest road system and its environmental and social impacts is especially critical in the context of climate change. As the CEQ's recent draft guidance on addressing climate change in NEPA analyses recognizes, "[c]limate change can increase the vulnerability of a resource, ecosystem, human community, or structure, which would then be more susceptible to climate change and other effects and result in a proposed action's effects being more environmentally damaging." CEQ, Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts (Dec. 18, 2014), page 22 (attached as Exhibit C). The draft CEQ guidance makes clear that "[s]uch considerations are squarely within the realm of NEPA, informing decisions on whether to proceed with and how to design the proposed action so as to minimize impacts on the

<sup>24</sup> Karr, J.R., J.J. Rhodes, G.W. Minshall, F.R. Hauer, R.L. Beschta, C.A. Frissell, and D.A. Perry. 2004. Postfire salvage logging's effects on aquatic ecosystems in the American West. *BioScience* 54: 1029-1033.

environment, as well as informing possible adaptation measures to address these impacts, ultimately enabling the selection of smarter, more resilient actions." *Id.*

Climate change intensifies the adverse impacts associated with roads. The Forest Service should consider the risk of increased disturbance when analyzing this proposed project. For example, as the warming climate alters species distribution and forces wildlife migration, landscape connectivity becomes even more critical to species survival and ecosystem resilience. Exhibit C at 9-14. See also USDA, Forest Service, National Roadmap for

Responding to Climate Change at 26 (2011), available at <http://www.fs.fed.us/climatechange/pdf/Roadmapfinal.pdf> (recognizing importance of reducing fragmentation and increasing connectivity to facilitate climate change adaptation).

Climate change is also expected to lead to more extreme weather events, resulting in increased flood severity, more frequent landslides, altered hydrographs, and changes in erosion and sedimentation rates and delivery processes. Many National Forest roads are poorly located and designed to be temporarily on the landscape, making them particularly vulnerable to these climate alterations. Even those designed for storms and water flows typical of past decades may fail under future weather scenarios, further exacerbating adverse ecological impacts, public safety concerns, and maintenance needs. The Forest Service should analyze in detail the impact of climate change on forest roads and forest resources.

The President's Executive Order 13,653 (Nov. 2013) provides direction on "Preparing the United States for the Impacts of Climate Change." The Order recognizes that "[t]he impacts of climate change - including an increase in prolonged periods of excessively high temperatures, more heavy downpours, an increase in wildfires, [and] more severe droughts . . . - are already affecting communities, natural resources, ecosystems, economies, and public health across the Nation," and that "managing th[o]se risks requires deliberate preparation, close cooperation, and coordinated planning . . . to improve climate preparedness and resilience; help safeguard our economy, infrastructure, environment, and natural resources; and provide for the continuity of . . . agency operations, services, and programs." Exec. Order 13,653, ¶ 1. To that end, the Order requires agencies to take various actions aimed at making "watersheds, natural resources, and ecosystems, and the communities and economies that depend on them, more resilient in the face of a changing climate." Id. ¶ 3. For example, "recognizing the many benefits the Nation's natural infrastructure provides, agencies shall, where possible, focus on program and policy adjustments that promote the dual goals of greater climate resilience and carbon sequestration." Id. Agencies also must develop and implement adaptation plans that "evaluate the most significant climate change related risks to, and vulnerabilities in, agency operations and missions in both the short and long term, and outline actions . . . to manage these risks and vulnerabilities." Id. ¶ 5(a).

The Forest Service's 2014 adaptation plan recognizes that the wide range of environmental and societal benefits provided by our national forests "are connected and sustained through the integrity of the ecosystems on these lands." See USDA Forest Service, Climate Change Adaptation Plan, page 58 (2014). The plan highlights USDA's 2010-2015 Strategic Plan Goal 2 of "[e]nsur[ing] our national forests . . . are conserved, restored, and made more resilient to climate change, while enhancing our water resources." Id. at 58. And consistent with section 5(a) of Executive Order 13,653, the plan identifies numerous climate change risks - including increased wildfire, invasive species, increasing water temperatures, extreme weather events, and fluctuating precipitation and temperature - that "pose challenges to sustaining forests and grasslands and the supply of goods and services upon which society depends, such as clean drinking water, forest products, outdoor recreation

opportunities, and habitat." Id. at 60-64. With respect to transportation infrastructure specifically, the adaptation plan recognizes that, "[w]ith increasing heavy rain events, the extensive road system on NFS lands will require increased maintenance and/or modification of infrastructure (e.g. larger culverts or replacement of culverts with bridges)." Id. at 62.

The Forest Service's Climate Change Adaptation Plan points to a number of actions to address the risks of climate change to our forests, and in particular to forest roads. For example, the plan highlights the 2012 Planning Rule as a mechanism to ensure that "National Forest System . . . land management planning policy and procedures include consideration of climate change." Id. at 73. The final directives to the planning rule echo the importance of designing plan components "to sustain functional ecosystems based on a future viewpoint" and "to adapt to the effects of climate change." FSH 1909.12, ch. 20, ¶ 23.11. The adaptation plan also points to Forest Service Manual 2020, which provides "Ecological Restoration and Resilience" directives designed "to restore and maintain resilient ecosystems that will have greater capacity to withstand stressors and recover from disturbances, especially those under changing and uncertain environmental conditions, including climate change and extreme weather events." USDA Climate Change Adaptation Plan at 73.

The forthcoming analysis must consider these impacts from forest roads in developing a robust range of alternatives to the proposed action.

5. The forthcoming EIS must analyze all connected, cumulative, and similar actions that could contribute

to cumulative effects

NEPA also requires an agency to consider not only the project proposal itself, but also connected, cumulative, and similar actions that could contribute to cumulative effects. 40 C.F.R. ? 1508.25.

Connected actions are those that are closely related and should be discussed in the same EIS. Id. ? 1508.25(a)(1). The regulations explain that connected actions: (1) automatically trigger other actions that may require an EIS; (2) cannot or will not proceed unless other actions are taken previously or simultaneously; (3) are interdependent parts of a larger action and depend on the larger action for their justification. Id. Cumulative actions are those "which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement." Id. ? 1508.25(a)(2). Finally, "similar actions" are those "which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating the environmental consequences together, such as common timing or geography." Id. ? 1508.25(a)(3). Cumulative effects (distinct from cumulative actions) are the effects on the environment resulting from the incremental impact of the action when added to other past, present, and reasonably foreseeable future projects. 40 C.F.R. ? 1508.7. The Washington Office directed forests to consider adjacent subwatersheds for connected actions and cumulative effects.<sup>25</sup>

It is not enough to make "conclusory" or "perfunctory references" to cumulative impacts or to continue to use the same boilerplate language throughout the draft EIS. *Natural Resources Defense Council v. Hodel*, 865 F.2d 288, 298-99 (D.C. Cir. 1988). Cumulative effects analysis requires "some quantified or detailed information. . ." *Neighbors of Cuddy Mountain v. U.S.F.S.*, 137 F.3d 1372, 1379 (9th Cir. 1998).

25 2012 Weldon Memo at 2.

Here, the Forest Service must look at the connected, cumulative and similar actions that would contribute to cumulative effects including recent wildfires, salvage logging activities, active, recent, or reasonably foreseeable vegetation management, forest plan amendments and grazing management across the three forests. Cumulative effects from those actions that should be analyzed include the effects on snag and down woody debris, soil health, old forests, climate resiliency, carbon sequestration, rare and sensitive plants, wildlife habitat and connectivity, threatened and endangered species, big game, aquatic resources, large trees, and roadless wild areas.

a. Cumulative effects on climate

The Forest Resiliency Project may significantly impact the environment with substantial greenhouse gas emissions as well as direct, indirect and cumulative effects on forest carbon stores and sequestration rates. The Ninth Circuit has concluded that the "impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct." *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.* ("NHTSA"), 538 F.3d 1172, 1217 (9th Cir. 2008). There is no scientific question that incremental increases in greenhouse gases can have a cumulatively "significant" effect on climate change. Id. at 1222. Further, "the fact that climate change is largely a global phenomenon that includes actions that are outside of [the agency's] control . . . does not release the agency from the duty of assessing the effects of its actions on global warming within the context of other actions that also affect global warming." Id. (internal citations omitted); see also id. ("[w]e cannot afford to ignore even modest contributions to global warming. If global warming is the result of the cumulative contributions of myriad sources, any one modest in itself, is there not a danger of losing the forest by closing our eyes to the felling of the individual trees?") (citing *City of Los Angeles v. NHTSA*, 912 F.2d 478, 501 (D.C. Cir. 1990) (Wald, C.J. dissenting); *San Luis Obispo Mothers for Peace v. NRC*, 449 F.3d 1016, 1032 (9th Cir. 2006) ("No provision of NEPA . . . allows [agencies] to eliminate a possible environmental consequence from analysis by labeling the risk as 'unquantifiable'"). NEPA clearly requires the pending analysis to consider the cumulative impact of project effects on climate change.

b. Cumulative effects to forest health from grazing, logging, and other management activities

The research clearly shows that livestock grazing changes forest dynamics in ways that alter natural fire

regimes and vegetative species composition. For example, grazing reduces the biomass and density of understory grasses which otherwise outcompete conifer seedlings and prevent dense tree recruitment (Belsky et al 1997).<sup>26</sup> Grazing has been shown to contribute to a change in natural fire frequencies and intensities (Campbell 1954,<sup>27</sup> Zimmerman et al 1984).<sup>28</sup> In addition, studies have shown that livestock also alter forest ecosystem processes by reducing the cover of herbaceous plants and litter, disturbing and compacting soils, reducing water infiltration rates, and increasing soil

26 Belsky, A. J., and D. M. Blumenthal. 1997. Effects of livestock grazing on stand dynamics and soils in upland forests of the Interior West. *Conservation Biology* 11:315-327.

27 Campbell, R.R. 1954. Fire in relation to forest grazing. *Unasylva* 8:154-158.

28 Zimmerman, G.T. and L.F. Neuenschwander. 1984. Livestock grazing influences on community structure, fire intensity, and fire frequency within the Douglas-fir/ninebark habitat type. *Journal of Range Management* 37(2):104-110.

erosion. (See e.g. Allen et al 1989,<sup>29</sup> Belsky et al 1997). Grazing also negatively affects water quality and seasonal quantity, stream channel morphology, hydrology, riparian soils, in-stream and stream vegetation, and aquatic fish and wildlife (See e.g. Armour et al 1991,<sup>30</sup> Belsky 1999).<sup>31</sup>

Many peer reviewed scientific papers document these adverse impacts of grazing on wildfire, species composition, and other forest ecosystem processes. Continuation of current grazing management within the project area will result in high-density forest structure, lack of stand initiation structure, detrimental soil conditions, and retarded RHCA conditions. Thinning, logging, and burning prescriptions, particularly within or adjacent to RHCA's, may result in increased livestock access to riparian areas.

The forthcoming EIS must address the cumulative impacts on the project area from logging and grazing. We request an alternative that reduces grazing activities within logged and burned areas to allow them to recover post project implementation in order to reduce the cumulative impacts resulting from grazing and management activities proposed under this project.

c. Cumulative impacts from forest roads

The Forest Service should look at all of the cumulative impacts from the road system within the project area and adjacent sub watersheds as part of this NEPA analysis. The analysis should be based on the current on-the-ground conditions. If there are past decisions that closed roads and those decisions have yet to be implemented, the Forest Service should incorporate those decisions in this proposed action. If the agency chooses to exclude past decisions that have yet to be implemented, it needs to explain why.

d. Cumulative impacts on old forests and large trees

The Eastside Screens were adopted to screen out projects that would log old forests (by prohibiting logging in LOS areas below HRV) and remnant medium and large size trees (by prohibiting logging of 21" or larger trees). The screens were based on a Region 6 eastside forest health assessment in eastern Oregon and Washington that showed that remnant large trees and old-forest patches have been heavily targeted for timber harvest and were seriously depleted

We strongly believe the Forest Service has a legal obligation to conduct a new NEPA analysis and revisit the Eastside Screens EA (see section below on NFMA) and cannot continue to approve site specific amendments to the screens. However, the proposed removal of 21" and larger trees, when cumulatively viewed, must be rigorously analyzed as part of the forthcoming EIS. The logging of LOS stands and removal of large trees on a project by project basis within the Blue Mountains has resulted in a significant change to the existing distribution of old-growth habitat throughout the region. Since the effects of these actions have never been looked at cumulatively, there is no current data on the distribution of old forest and large structure. At the same time, range of variation

29 Allen, B.H., and J.W. Bartolome. 1989. Cattle grazing effects on understory cover and tree growth in mixed

conifer clearcuts. Northwest Science 63:214-220.

30 Armour, C.L., D.A. Duff, and W. Elmore. 1991. The effects of livestock grazing on riparian and stream ecosystems. Fisheries 16(1):7-11.

31 Belsky J, Matzke A, Uselman S. 1999. Survey of livestock influences on stream and riparian ecosystems in the western United States. J. Soil Water Conserv. 54:419-31.

analyses for timber projects with the Blues show that our forests remain severely deficient in old forest structure and large structure.

We request that all alternatives developed protect all old growth trees regardless of size or species. We also request that the EIS include information regarding the distribution and number of old forest patches and large trees currently within the project area along with an analysis of how all alternatives developed would impact this current condition. This includes the number of large trees that will be removed under each alternative.

6. The Forest Service must make all specialist and technical reports available to the public online or in an appendix to the DEIS

In the past the Forest Service has refused to provide draft specialist reports to the public or provide specialist reports outside of the Freedom of Information Act (FOIA). Asking the public to submit a formal FOIA request for specialist reports that the forest relied upon in the preparation of a draft EIS during an open comment period is a clear violation of NEPA. 40 C.F.R. ?? 1502.18(a) & (d); FAQ, 46 FR at 18034. Documents containing analysis of environmental impacts should instead be "described and analyzed in the text" and included in an appendix. Pacific Rivers Council v. U.S. Forest Serv., 689 F.3d 1012, 1031 (9th Cir. 2012) vacated as moot, 133 S.Ct. 2843 (2013); 40 C.F.R. ?

1502.21 (a)-(d) (material prepared in connection with an environment impact statement; substantiates any analysis fundamental to the impact statement; or is analytic and relevant to the decision to be made must be included in an appendix that is circulated with the environmental impact statement or be readily available upon request). An agency may not discharge its obligation to provide the public with analysis of the environmental impacts of a project simply by incorporating documents by reference. Id.

In the recent case of League of Wilderness Defenders, et al. v. Connaughton, et al., No. 3:12-cv-02271-HZ (D. Or. Dec. 9, 2014) the U.S. District Court found the Wallowa-Whitman National Forest violated NEPA and its implementing regulations when it failed to make specialist reports accessible to the public during the public comment periods for both a draft and final EIS, instead making the public request these reports through the FOIA. At 27. Specifically, the court stated that the Forest Service should have placed the specialist reports in an appendix which it either "circulated with the environmental impact statement or [made] readily available on request" because the reports were "prepared in connection with," and pertained "directly to the preparation of the EIS." Id at 31.

We request that all specialist and technical reports prepared in connected with the draft EIS be included as part of an appendix or posted online on the project webpage.

C. The proposed action does not meet the requirements of the National Forest Management Act

NFMA requires that site-specific project management decisions be consistent with the applicable Forest Plan. 16 U.S.C. ? 1604(i). Case law echoes the requirement that the Forest Service must demonstrate compliance with relevant Forest Plan standards in its project level decisions. Neighbors of Cuddy Mountain v. U.S. Forest Service, 137 F.3d 1372, 1376 and 1377 (9th Cir. 1998) ("Pursuant to NFMA, the Forest Service must demonstrate that a site-specific project would be consistent with the land resource management plan of the entire forest"). NFMA also poses substantive obligations

on the Forest Service to ensure the protection of various resources such as wildlife diversity, soils, watershed conditions, and fish habitat. 16 U.S.C. ?1604.

The proposed action would allow for the cutting of large trees (>21" in diameter); commercial logging in designated old growth forests; exceedances of road density standards and guidelines; and exemptions from meeting effective elk habitat standards in violation applicable Forest Plan Standards and NFMA.

1. Proposed Forest Plan Amendments

All proposed project activities must be consistent with the Ochoco, Umatilla and Wallowa-Whitman Forest Plans as amended. Proposed activities that are in conflict with a Forest Plan either must be denied, modified (so as to be consistent), or the Forest Plan must be amended. If a Forest Plan amendment is pursued, the regulations at 36 CFR 219.10(f) direct the Forest Service to consider whether a proposed amendment to a forest plan will address unusual or unique conditions specific to a particular site or whether the amendment will address conditions that are general to the whole forest. If the amendment is sought to address the latter, the amendment is considered "significant."

In developing and obtaining approval of the amendment for a "significant" change to the forest plan, the Forest Service must follow the same procedures as are required for developing and approving a Forest Plan. 16 U.S.C. ? 1604(f)(4). The Forest Service must prepare an EIS, the Regional Forester must review and approve the amendment. Amendments that are non-significant may be adopted following disclosure and notification in an environmental document, such as an Environmental Assessment, EIS, or a supplement to one of these documents.

A recent case on the Wallowa-Whitman National Forest clarified whether a forest plan amendment is significant or non-significant. That case challenged the Snow Basin project on the Wallowa-Whitman for, among other things, its use of site-specific amendments to the Eastside Screens. Plaintiffs challenged the Forest Service decision to use a site-specific amendment on the basis that site-specific amendments are intended to address unique characteristics of a particular forest area, rather than conditions that are common throughout the entire forest or region. Plaintiffs argued that because the Snow Basin project area did not have distinguishing characteristics, a site-specific amendment was not justified. *League of Wilderness Defenders, et al. v. Connaughton, et al.*, No. 3:12-cv-02271-HZ (D. Or. Dec. 9, 2014). The League of Wilderness Defenders court found the decision to make site-specific amendments to be a violation of NFMA because the Forest Service failed to explain what conditions existed within the project area that supported selection of a site-specific amendment over a forest-wide amendment. *Id.* at 54-55. Instead, the agency justified the amendment based on forest conditions found throughout Oregon's eastern forests. The court stated that for a forest plan amendment to be a site-specific amendment "the amendment to the Forest Plan must be based on unusual or unique aspects of the site itself when compared to the forest generally."

The scoping notice states that the Forest Service intends to approve non-significant amendments to the Ochoco, Umatilla, and Wallowa-Whitman forest plans to allow for the cutting of large trees >21" in diameter; commercial logging in designated old growth forests; exceedances of road density standards and guidelines; and exemptions from effective elk habitat standards. The Forest Resiliency project area-over 1.2 million acres-basically consists of all lands on the these three national forests that are outside "an existing action project planning area, a recently burned or implemented

project area, Wilderness, Research Natural Area, Inventoried Roadless Area, or an area identified by the respective Forest Supervisor as being of low restoration priority." Scoping Notice p. 5. It is hard to see how forest conditions that will be addressed through the proposed forest plan amendments will address unique and unusual forest conditions when compared to the forest generally. Rather, these amendments seems to be designed to allow the Forest Service to exempt itself from NFMA's requirement to protect wildlife diversity, soils, watershed conditions, and fish habitat.

We request the development of an alternative that contains no forest plan amendments and is in compliance with the requirements of NFMA.

a. Proposed amendment to the Eastside Screens

The Eastside Screens were adopted in the early 1990's in response to concerns about over logging of the forests east of the Cascade Crest in Oregon and Washington. The intent of the screens was to retain old and large diameter trees and move towards the historical range of variability (HRV) across the landscape. The screens amended the Ochoco, Umatilla and Wallowa-Whitman Forest Plans to, among other things, prohibit the logging of live trees equal to or larger than 21 inches in diameter and prohibit timber sale harvest activities within late and old structural stages that are below their HRV. To our knowledge, since Eastside Screens were adopted, the Umatilla has approved four amendments, and the Wallowa-Whitman has approved at least 15 amendments to the screens. On August 18, 2015, HCPC submitted a request under the Federal Freedom of Information Act (FOIA) for information related to the implementation of the "Eastside Screens" across Region 6,

including any existing documents listing approved amendments to the screens and projects that are currently considering amendments to the screens. To date we have not received any responsive document or an estimate of when they will be provided despite numerous requests for an estimated completion date; therefore, we do not know the full scope of approved and planned amendments to the screens.

Past amendments to the screens have been justified on the basis on the 2003 Goodman memo, which encouraged forest plan amendments to allow for the harvest of large young Douglas-fir and grand fir trees especially in dry forests. This memo's rationale has been supported by dry forest restoration science that concludes that restoring species towards historical levels can often mean removing large but younger (<150 year) grand/white fir and Douglas-fir to favor pines and western larch (Franklin et al. 2013). These past amendments have looked to address an issue pervasive across dry forests east of the Cascade Crest, not an unusual or unique condition.

These past site-specific amendments to the screens and their accompanying rationale, along with the geographic scope of this project, do not support the assertion that the amendment sought to the Eastside Screens is based on unusual or unique conditions rather than conditions that are general to the whole Blue Mountains. Further, such an amendment would result in significant change to forest plan direction on the Ochoco, Umatilla, and Wallowa-Whitman National Forests. In order to be compliant with NFMA, the Forest Service must drop the proposed amendment or amend the Ochoco, Umatilla, and Wallowa-Whitman Forest Plans through a separate NEPA process that amends the prohibition on logging trees >21" based on best available science.

b. Amendment allowing for commercial logging within allocated Old Growth areas

The Forest Service has approved and/or proposed site-specific amendments on the prohibition on commercial logging within designated old growth management areas on numerous timber projects in

the Blue Mountains. For example, the agency has proposed or approved site-specific amendments to the prohibition on commercial logging in allocated old growth areas (MA-15) as part of the Mt Emily Fuels Reduction Project, the Cove II WUI Project, the Little Dean Project and the Lower Joseph Creek Restoration Project on the Wallowa-Whitman National Forest. All of these amendments have been justified by the need to reduce fuels and modify fire behavior within these old growth reserves. This clearly indicates that these amendments do not address a site-specific issue based on unusual or unique aspects of the site itself when compared to the forest generally. Rather, the amendments are a significant change to forest plan direction. Therefore, the Forest Service must include a forest wide significant amendment as part of the proposed action in order to move forward with this part of the project proposal.

c. Amendments exempting the forest service from meeting Elk habitat and open road density standards and guidelines

The Forest Service proposes to exempt this project from the requirements to provide for effective elk habitat by providing adequate cover and areas free from motorized travel. These two interconnected factors determine elk distribution on the landscape and overall health of elk populations in the Blue Mountains. Current distribution issues will only be made worse by reducing cover and not making any changes to reduce the open road network

Open road density is an indicator of elk vulnerability and habitat condition. Many studies have demonstrated that elk avoid areas near open roads, and elk are more vulnerable to mortality from hunter harvest, both legal and illegal (Rowland et al. 2005). In areas of higher road densities, elk exhibit higher levels of stress and increased movement rates (Rowland et al. 2005). When elk avoid areas with motorized use, it changes the distribution of elk causing them to overgraze and degrade winter ranges. Elk are spending less time in spring, summer and fall ranges, where the majority of roads are located, and instead spend more time on winter ranges. This change in distribution negatively affects vegetative composition and structure in elk winter range. Additionally, with less spring forage available, calf recruitment declines. Overtime, herds lose the knowledge of where summer ranges are located; so, even when motorized use is reduced, elk don't return.

Instead of providing adequate habitat for elk and meeting open road density and cover requirements, the Forest Service would like to exempt themselves from such requirements. We can only guess they are doing so in order to meet their goal of completing an environmental analysis at a larger scale and faster pace than

traditional analysis would allow. However, such action is impermissible under NFMA. Any conditions that must be addressed at this geographical scale are clearly indicative of general forest conditions and are not unique or unusual conditions of a certain site. The Forest Service must meet elk cover and road density standards and guidelines or pursue "significant" forest plan amendments through a separate NEPA process.

d. The cumulative impacts analysis must include all other related past, present, and reasonably foreseeable forest plans amendments

The Snow Basin court also found that the Forest Service's choice to limit its cumulative impacts analysis of a proposed Eastside Screen amendment to the 29,000 acre project area rather than analyzing the impacts of the project's amendments with all other past, present, and reasonably foreseeable Eastside Screens amendments violated the requirement to take a "hard look" under NEPA. *Id.* at 17-18.

If any alternatives are analyzed that amend the forest plans, the cumulative effects analysis of the proposed forest plan amendments should look at the impacts of the proposed amendments along with all other relevant past, present and reasonably foreseeable forest plans amendments that allow for the same activity whether it be logging of large trees >21" in diameter; commercial logging in designated old growth reserves; exceedance of road density standards and guidelines; or exempting the agency from meeting effective elk habitat standards on the Ochoco, Umatilla, or Wallowa- Whitman National Forests.

## 2. Wildlife Viability

NFMA and its implementing regulations require the Forest Service to manage forests for viable populations of native vertebrate and desired non-native species. Diversity is assessed by identifying Management Indicator Species (MIS), monitoring MIS, gathering inventory data on MIS, and analyzing the impacts of logging (and other management activities) on MIS, because MIS are an indicator of the overall diversity of the forest. 36 CFR ? 219.19 et seq. NFMA regulation 219.19 requires that, "fish and wildlife habitat shall be managed to maintain viable population of existing native and desired non-native vertebrate species in the planning area." Furthermore, the Forest Service Manual states the agency must manage "habitats for all existing native and desired nonnative plants, fish, and wildlife species in order to maintain at least viable populations of such species." FSM at 2670.12.

In the pending NEPA analysis, please disclose how the proposed activities will impact MIS species including Rocky Mountain elk, Northern Goshawk, Pileated woodpecker, and the American Marten, and how the project is meeting the above-mentioned requirements.

D. As part of its analysis of the Blue Mountain Forest Resiliency Project, the Forest Service must consider the Ochoco, Umatilla and Wallowa-Whitman Travel Analysis Reports and identify the Minimum Road System.

The Forest Service faces many challenges with its vastly oversized, under-maintained, and unaffordable road system. The impacts from roads to water, fish, wildlife, and ecosystems are tremendous and well documented in scientific literature. Given the large geographic scale of the Forest Resiliency Project, this is precisely the type of project where the Forest Service must consider the Travel Analysis Reports for the Ochoco, Umatilla and Wallowa-Whitman National Forests National Forests, and identify the Minimum Road System (MRS).<sup>32</sup> As such, we urge the Forest Service to develop alternatives to the proposed action through this lens. This type of large-scale project is the perfect opportunity to begin making on-the-ground progress towards an economically and environmentally sustainable road network.

To address its sustainable and deteriorating road system, the Forest Service promulgated the Roads Rule (referred to as "subpart A") in 2001. 66 Fed. Reg. 3206 (Jan. 12, 2001); 36 C.F.R. part 212, subpart A. The Roads Rule created two important obligations for the agency. One obligation is to

<sup>32</sup> 36 C.F.R. ? 212.5(b)(1) ("For each national forest . . . the responsible official must identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.").

identify unneeded roads to prioritize for decommissioning or to be considered for other uses. 36 C.F.R. ? 212.5(b)(2). Another obligation is to identify the MRS needed for safe and efficient travel and for the protection, management, and use of National Forest system lands. Id. ? 212.5(b)(1).<sup>33</sup> The MRS is the road system, determined by the Forest Service, as needed to:

- \* Meet resource and other management objectives adopted in the relevant land and resource management plan,
- \* Meet applicable statutory and regulatory requirements,
- \* Reflect long-term funding expectations, and
- \* Ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.

Id. (hereafter, MRS factors). See also Memorandum from Leslie Weldon to Regional Foresters et al. on Travel Management, Implementation of 36 CFR, Part 212, Subpart A (Mar. 29, 2012) (hereafter, 2012 Weldon Memo). The goal of subpart A is "to maintain an appropriately sized and environmentally sustainable road system that is responsive to ecological, economic, and social concerns."<sup>34</sup>

The Forest Service's Washington Office has issued a series of directive memoranda that outline how the agency expects forests to comply with subpart A.<sup>35</sup> First, each forest was required to submit its TAR by September 30, 2015. See 2013 Weldon Memo. Next, pursuant to its own regulations and directive memoranda, the Forest Service must consider the valid portions of its TAR and begin to determine the MRS in its analysis of site-specific projects of the appropriate geographic size under NEPA. See 2012 Weldon Memo at 2 (directing forests to "analyze the proposed action and alternatives in terms of whether, per 36 CFR 212.5(b)(1), the resulting [road] system is needed"). By analyzing whether a proposed project is consistent with the relevant portions of the TAR, and considering the MRS factors under 36 CFR 212.5(b)(1), the Forest Service expects each forest to identify the MRS for particular forest segments. Id. ("The resulting decision [in a site-specific project] identifies the MRS and unneeded roads for each subwatershed or larger scale").

<sup>33</sup> In promulgating its rules, the Forest Service indicated that "[t]he requirement to identify roads for decommissioning is '[e]qually important' as the overall identification of the minimum road system." Center for Sierra Nevada v. U.S. Forest Service, 832 F. Supp. 2d 1138 (E.D. Cal. 2011) (quoting 66 Fed. Reg. at 3207).

<sup>34</sup> See 2012 Weldon Memo at 1 ("The national forest road system of the future must continue to provide needed access for recreation and resource management, as well as support watershed restoration and resource protection to sustain healthy ecosystems."). See also Memorandum from Joel Holtrop, U.S. Forest Service Washington Office, to Regional Foresters et al. (Nov. 10, 2010) (hereafter, 2010 Holtrop Memo) ("Though this process points to a smaller road system than our current one, the national forest road system of the future must provide needed access for recreation and resource management and support watershed restoration and resource protection to sustain healthy ecosystems and ecological connectivity.").

<sup>35</sup> 2010 Holtrop Memo; 2012 Weldon Memo; Memorandum from Leslie Weldon, U.S. Forest Service Washington Office, to Regional Foresters et al. (Dec. 17, 2013) (hereafter, 2013 Weldon Memo) (supplementing and reaffirming the 2012 Weldon Memo).

1. This is precisely the type of project where Travel Analysis Reports must be considered and the Minimum Road System identified as part of the NEPA analysis

Now that the Ochoco, Umatilla and Wallowa-Whitman National Forests have completed their Travel Analysis Reports, it is time for the Forest Service to take the next step under subpart A: identify the MRS through site-specific projects subject to NEPA.<sup>36</sup>

This project provides the appropriate geographic scale for the Forest Service to identify the MRS. The Forest Service's Washington Office directed forests to use the TAR to identify the MRS for proposed actions at the scale of a 6th code subwatershed or larger. 2012 Weldon Memo at 2. See also 2012 FAQs (noting that "travel analysis and identification of the MRS could be done at the same scale, if that scale is at the ranger district or unit level."). Plus, consideration of the MRS factors at 36

C.F.R. ? 212.5(b)(1) only makes sense on a large enough geographic scale. The analysis footprint for the

Forest Resiliency Project is approximately 1.2 million acres across the Ochoco, Umatilla, and Wallowa-Whitman National Forests. This planning area consists of selected 5th code watersheds of 45,000 to 200,000 acres and spans 13 counties in Oregon and Washington.

Pursuant to the plain language of the agency's own regulations and directive memoranda interpreting those regulations, the Forest Service must consider the Ochoco, Umatilla and Wallowa-Whitman national forests Travel Analysis Reports and identify the MRS when analyzing this project under NEPA. See, e.g., 2012 Weldon Memo at 2 ("Travel analysis should be used to inform the environmental analysis.")

2. The Forest Service must consider unneeded roads for closure or decommissioning

Subpart A directs the agency to "identify the roads on lands under Forest Service jurisdiction that are no longer needed."<sup>37</sup> It refers to all roads, not just National Forest System roads. The rules define a road as "[a] motor vehicle travelway over 50 inches wide, unless designated and managed as a trail."<sup>38</sup>

The Forest Service must ensure that the actions proposed under the Forest Resiliency Project are consistent with subpart A. Here, under the proposed action, the Forest Service has proposed no changes to the existing road network. No new roads would be created; instead temporary roads would be constructed to access areas where they are currently no system roads. Closed roads used to implement the project would be reclosed after use. The range of alternatives analyzed in the DEIS will include one or more proposed road systems that, post implementation, would meet Forest Plan

<sup>36</sup> See 2012 Weldon Memo ("The next step in identification of the MRS is to use the travel analysis report to develop proposed actions to identify the MRS . . . at the scale of a 6th code subwatershed or larger. Proposed actions and alternatives are subject to environmental analysis under NEPA. Travel analysis should be used to inform the environmental analysis.")

<sup>37</sup> 36 C.F.R. ? 212.5(b)(2). See also Center for Sierra Nevada, 832 F. Supp. 2d at 1155 ("The court agrees that during the Subpart A analysis the Forest Service will need to evaluate all roads, including any roads previously designated as open under subpart B, for decommissioning.")

<sup>38</sup> 36 C.F.R. ? 212.1.

standards and guidelines and consultation guidance provided during the development of those plans. We support the development of such an alternative.

This and any other alternatives developed must assess these proposed actions in relation to the respective forest's TAR as well as the factors for an MRS, with the goal of minimizing adverse environmental impacts. Specifically, the decisions to close, decommission, or maintain certain roads should reflect the results from the risks and benefits analysis in the TAR.

Routes identified for decommissioning through the TAR or other processes within the project area must be closed, decommissioned, and reclaimed to a stable and more natural condition during the life of the project. To the extent that the final decision in this project differs from what is recommended in the TAR, the Forest Service must provide an explanation for that inconsistency. See, e.g., *Smiley v. Citibank*, 517 U.S. 735 (1996) ("Sudden and unexplained change . . . or change that does not take account of legitimate reliance on prior interpretation . . . may be 'arbitrary, capricious [or] an abuse of discretion'" (internal citations omitted).

The Forest Service should prioritize road decommissioning in this project to enhance landscape connectivity and ecological integrity based on:

- \* Effectiveness in reducing fragmentation, connecting un-roaded and lightly-roaded areas, and improving stream segments, with a focus on Inventoried Roadless Areas, important watersheds, and other sensitive ecological and conservation areas and corridors;
- \* Benefit to species and habitats, including restoring aquatic and terrestrial habitats and habitat connections;
- \* Addressing impaired or at-risk watersheds;
- \* Achieving motorized route density standards; and
- \* Enhancement of quiet recreation experiences.

The Forest Service should use the National Best Management Practices for Water Quality Management on National Forest System Lands (Volume 1, April 2012) to guide road management in determining the MRS. The BMP program "was developed to improve agency performance and accountability in managing water quality consistent with the Federal Clean Water Act (CWA) and State water quality programs" and "[c]urrent Forest Service policy directs compliance with required CWA permits and State regulations and requires the use of BMPs to control nonpoint source pollution to meet applicable water quality standards and other CWA requirements." National Best Management Practices. It directs forests to:

- \* Design the transportation system to meet long-term land management plan desired conditions, goals, and objectives for access rather than to access individual sites.
- \* Limit roads to the minimum practicable number, width, and total length consistent with the purpose of specific operations, local topography, geology, and climate to achieve land management plan desired conditions, goals, and objectives for access and water quality management.

Id. at 104.

We urge the Ochoco, Umatilla and Wallowa-Whitman National Forests to limit its road network to those roads that are necessary for access and management, and which can be adequately maintained

within agency budgets and capabilities. We encourage road decommissioning and reductions in road density to improve watershed conditions and aquatic health in streams, as well as to protect and enhance wildlife habitat and connectivity. The Forest Service should continue working to reduce sediment delivery from roads, improve or remove road crossings, and close or decommission roads that cannot be adequately maintained.

#### E. Conclusion

Thank you for the opportunity to submit scoping comments on the proposed action for the Blue Mountains Forest Resiliency Project. We look forward to working with you to make our forests more resilient. Please let us know if you have any questions.

Sincerely,

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