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April 7, 2017

Erin Black Planning Team Leader 2455 Hwy 141 Trout Lake, WA 98650 Via email: <u>comments-pacificnorthwest-giffordpinchot-mtadams@fs.fed.us</u>

RE: Upper White Salmon River Forest Restoration and Fire Resilience Project

Dear Ms. Black:

Thank you for the opportunity to comment on the proposed Upper White Salmon Forest Restoration and Fire Resilience Project. The Cascade Forest Conservancy ("CFC")'s mission is to protect and sustain forests, streams, wildlife, and communities in the heart of the Cascades though conservation, education, and advocacy. We represent over 8,000 members and supporters who share our vision of a forest where wild places remain to capture our imagination and allow native wildlife to thrive.

Overall, CFC is supportive of this project, as we believe it is important to restore this landscape to a more resilient condition. We are pleased to see that the Forest Service is considering the threat of wildfires and the potential impacts of climate change on this landscape, and analyzing actions that can be taken now to mitigate these future impacts. However, we are concerned about several aspects of this project, including: impacts to the northern spotted owl ("NSO") and designated critical habitat; the Forest Service's failure to identify roads for closure and/or decommissioning; 27 miles of new and reconstructed temporary roads, and; potential impacts to the Mt. Adams Wilderness.

We request that the Forest Service consider an alternative in its environmental analysis that:

-Reduces the impact of timber harvest on NSO and critical habitat, especially within

suitable NSO nesting, roosting, and foraging habitat

-Considers roads for closure and/or decommissioning

-Reduces the miles of new and reconstructed temporary roads

-Reduces potential impacts to the Mt. Adams Wilderness

Additionally, the CFC believes that this project may significantly affect the environment and that it requires the preparation of an Environmental Impact Statement ("EIS") under the National Environmental Policy Act. CFC's concerns related to this project and suggested alternatives are explained in further detail below.

National Environmental Policy Act

The National Environmental Policy Act ("NEPA") exists to "protect the environment by requiring that federal agencies carefully weigh environmental considerations and consider

potential alternatives to the proposed action before the government launches any major federal action."¹ NEPA requires a federal agency to "study, develop, and describe appropriate alternatives" to a proposed project independent of whether or not the agency is preparing an EA or EIS.² The existence of a "viable but unexamined alternative renders an EA inadequate."³ In considering alternatives to the proposed project, the Forest Service "must look at every reasonable alternative within the range dictated by the nature and scope of the proposed action, and sufficient to permit a reasoned choice."⁴ Informed and meaningful consideration of the alternatives is an integral part of the statutory scheme.⁵ An alternative that is consistent with the policy goals of the project and is potentially feasible must be analyzed in depth and not preliminarily eliminated.⁶

An agency must prepare an EIS if a proposed federal action may "significantly affect the quality of the human environment."⁷ The significant effect need not actually occur, it sufficient to trigger the preparation of an EIS if a substantial question is raised "whether a project may have a significant effect on the environment."⁸ Significant effect is defined in reference to both the context and intensity of the action. When assessing the intensity of the action, the agency must consider several factors, including:

(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.

(2) The degree to which the proposed action affects public health or safety.

(3) Unique characteristics, such as proximity to historic or cultural resources, park lands,

prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

(4) The degree to which the effects are likely to be highly controversial.

(5) The degree to which the possible effects are highly uncertain or involve unique or unknown risks.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it into small component parts.

(8) The degree to which the action may adversely affect [sites/structures] listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

¹ Barnes v. U.S. Dep't. of Transp., 655 F.3d 1124, 1131 (9th Cir. 2011).

² 42 U.S.C. § 4332(2)(E); Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1229 (9th Cir. 1988).

³ Western Watersheds v. Abbey, 719 F.3d at 1050.

⁴ *Id.* (internal citations omitted).

⁵ Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1228 (9th Cir. 1988).

⁶ Muckleshoot Indian Tribe v. U. S. Forest Serv., 177 F.3d 800, 813–14 (9th Cir. 1999).

⁷ 42 U.S.C. § 4332(2)(c)

⁸ Blue Mountains Biodiversity Project v. Blackwood, 161 F.3d 1208, 1212 (9th Cir. 1998).

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

40 C.F.R. §1508.27(b)

We are concerned with the lack of action alternatives in the Upper White Salmon draft EA. Additionally, we believe an EIS is required for this project because the proposed action may have a significant effect on the environment.

I. The Forest Service should consider other viable alternatives as required by NEPA.

In the Upper White Salmon draft EA, the Forest Service only considered the no action alternative and the proposed action. The justification for the lack of action alternatives in the EA is that the "issues raised did not drive the development of an action alternative other than the Proposed Action,"⁹ and that the "responsible official modified the original proposal to address resource concerns that were raised both from interdisciplinary specialists and the public."¹⁰

While we appreciate the Forest Service's efforts to incorporate public concerns into the Proposed Action, we believe these efforts fall short of a full alternatives analysis under NEPA. Throughout the planning process, we have suggested alternatives that would have less environmental impacts, including: reducing or eliminating temporary roads; identifying roads for closure and/or decommissioning; increasing riparian no-cut buffers; and eliminating units from harvest that have significant impacts to wildlife habitat or in areas with unique characteristics. We believe that these suggested alternatives are viable, consistent with the purpose of the project, and should have been incorporated into additional action alternatives. Our concerns are not adequately addressed in the Proposed Action. We suggested these alternatives in our scoping comments, at South Gifford Pinchot Collaborative meetings, and we continue to suggest viable alternatives in these comments. We encourage the Forest Service to consider and adopt an alternative that meets the purpose in a less impactful way.

II. The intensity of the Proposed Action suggests that the action may have a significant effect on the environment and the Forest Service should prepare an EIS.

The Proposed Action requires the preparation of an EIS because several components of this project suggest that it may have a significant effect on the environment, including: impacts that may be both beneficial and adverse; unique characteristics such as proximity to the Upper White Salmon Wild and Scenic River corridor and the Mt. Adams Wilderness; the degree to which the effects are likely to be highly controversial (for example, harvest in Late Successional Reserve stands over 80 years old); cumulative impacts; and the degree to which the action may adversely affect the northern spotted owl and critical habitat designated under the Endangered Species Act (ESA). We further discuss these concerns in the following sections.

Northern Spotted Owl

⁹ EA at 21.

¹⁰ EA at 36.

Due to widespread loss of its old-growth habitat, the Northern Spotted Owl ("NSO") was listed as a threatened species in 1990.¹¹ The U.S. Fish and Wildlife Service designated revised critical habitat for the NSO under the ESA effective on January 2, 2013. Approximately 9,577,969 acres of critical habitat were designated in California, Oregon, and Washington, including much of the Upper White Salmon project area.

Approximately 44 percent of the analysis area for this project contains suitable nesting/roosting or foraging habitat, and 61 percent is comprised of habitat that can be used for dispersal.¹² Habitat in the analysis area is fairly fragmented by past timber harvest and natural disturbances.¹³ There are 12 historic spotted owl activity centers (HAC) located within the analysis area, and one located outside the analysis area but close enough that the 0.7 mile home range circle overlaps a part of the analysis area.¹⁴

I. The degree of impact to northern spotted owls and designated critical habitat suggests that additional analysis is required.

One factor a federal agency must consider when determining whether an action is significant and an EIS is required is the degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act ("ESA") of 1973.¹⁵ In determining whether to prepare an EIS, the Forest Service must consider whether the project impacts the NSO and its habitat to a degree that would merit further NEPA analysis. Even if the project does not drive the NSO to the brink of extinction, the impacts of the project may still require the preparation of an EIS.¹⁶

The amount of NSO habitat that would be degraded or removed supports the need for an EIS. In other timber harvest proposals within NSO critical habitat, courts have held that the degree of impact to NSOs and/or critical habitat was significant under 40 C.F.R. § 1508.27(b)(9) and supported the need for an EIS where less than 190 acres of critical habitat (including 153 acres of nesting, roosting, foraging ("NRF") habitat) would be removed and there were no nests or projected takings of NSOs;¹⁷ and where the proposed action would downgrade 406 acres and remove 82 acres of suitable NSO habitat, resulting in the incidental take of two NSO nest pairs and one resident owl.¹⁸

Similarly, the Proposed Action would result in a net reduction of 1,181 acres of dispersal habitat, including 294 acres of foraging habitat that would be converted to non-habitat.¹⁹ 100 acres of

¹⁵ 40 C.F.R. § 1508.27(b)(9).

¹¹ 55 Fed. Reg. 26,114 (June 26, 1990).

¹² EA at 94.

¹³ *Id*.

¹⁴ EA at 96.

¹⁶ *Cascadia Wildlands*, 937 F. Supp. 2d at 1282 ("a project need not jeopardize the continued existence of a threatened or endangered species to have a 'significant' effect on the environment.")

¹⁷ See Oregon Wild v. Bureau of Land Management, 2015 WL 1190131 (D. Or. Mar. 14, 2015).

¹⁸ Cascadia Wildlands, 937 F.Supp.2d at 1282-83.

¹⁹ EA at

nesting habitat would be degraded to foraging, but would still be considered suitable habitat, and about 1,728 acres of foraging habitat would be degraded but still remain foraging habitat. The acreage of suitable NSO habitat that will be degraded or converted to non-habitat as the result of the Upper White Salmon project is likely to impact the NSO and designated critical habitat to a significant degree.

Although there will be no harvest done in the 300 meter buffer around historic spotted owl activity centers, two activity centers would be impacted by harvest of suitable habitat within the 0.7 mile home range - #312 and #313. Following harvest, both #312 and #313 would remain above threshold levels, however in #313 suitable habitat within the 0.7 mile circle would decline from 535 acres to 517 – only slightly above the 500 acre threshold. Due to a lack of recent surveys and the increasing difficulty in obtaining a "presence" observation when carrying out vocal surveys for northern spotted owl, it is critical to assume presence, even if there have not been recent sightings. Northern spotted owls have strong site fidelity and have been documented to return to past nest sites years after disturbance or vacancy. Therefore, cautiously following management recommendations in the owl circles is an important step in supporting population viability in the face of threats from logging, wildfires, and barred owls. We request that the Forest Service consider an alternative that is less impactful to NSOs by eliminating heavy thinning in 0.7 miles NSO circles. Also, to the extent harvest within these NSO circles is included in the Proposed Action, it further supports the need for additional analysis.

The removal or degradation of a considerable portion of designated critical habitat in the Proposed Action is another factor that supports the need for further analysis. To earn the "critical" designation under the ESA, habitat must be crucially important to a threatened or endangered species.²⁰ A "likely to adversely affect" determination is an important factor in supporting the need for an EIS.²¹ Due to the degradation and removal of NSO habitat, the Forest Service determined that the proposed action "may affect, and is likely to adversely affect" the NSO and critical habitat.²² Further habitat loss and fragmentation pose a serious threat to the NSO, especially with the increasing impacts related to the invasive barred owl. Even if it is not high quality NSO habitat, the amount of designated critical habitat that would be degraded or removed as a result of the proposed action will have short- and long-term impacts on the NSO. The negative impacts to NSO critical habitat of this project support further analysis, even if the Proposed Action may benefit NSO habitat long-term.

Additionally, to the extent the proposed action includes harvest in LSR stands over 80 years old, an EIS should be prepared because these actions impact the NSO to a significant degree and are highly controversial.²³ Although LSRs cannot be treated as a substitute for designated critical habitat,²⁴ they are intended to provide habitat that supports late-successional associated species including the NSO. This project proposes treatment in LSR stands over 80 years old in units

²⁰ See Cascadia Wildlands, Case No. 6:16-cv-01095-JR, 19 (D. Or. Mar. 20, 2017).

²¹ Id. at 18, quoting Klamath-Siskiyou Wildlands Ctr. v. U.S. Forest Serv., 373 F.Supp.2d 1069, 1080-81 (E.D. Cal. 2004).

²² EA at ?

²³ See 40 C.F.R § 1508.27(b)(4);(9).

²⁴ Gifford Pinchot Task Force v. U.S. Fish and Wildlife Serv., 378 F.3d 1059, 1075-76 (9th Cir. 2004).

303476, 303542, 305402, 305409, and 30578 A. Harvest in older stands is also likely to impact NSO prey species such as flying squirrels. Overall we believe the Proposed Action's harvest prescription in at-risk native stands will benefit the forest and wildlife habitat long-term, and we view it as a positive outcome of the collaborative group's input. Particularly in LSR stands, it is important that these harvest guidelines are closely followed to meet project goals while protecting wildlife habitat. However, even if the proposed action may be beneficial in the long-term, harvest in stands over 80 years old (especially in LSR) is highly controversial, and impacts the NSO and other late-successional associated species to a degree that requires additional analysis.

II. The analysis of the No Action Alternative as it relates to impacts on the northern spotted owl, and the future impacts of climate change, is insufficient and suggests that additional alternatives should be analyzed.

The analysis of the No Action Alternative is concerning because it assumes that NSO habitat will be degraded or lost, even if no action is taken. While we are pleased to see the potential impacts of climate change being incorporated into the EA, the assumption that acres of currently suitable habitat would become "non-habitat in 10 to 20 years without treatment anyway"²⁵ biases the analysis toward the proposed action. The analysis of this alternative also states that future habitat losses due to insects and wildfires "could cover a much larger area than what would be affected by the Proposed Action,"²⁶ and that "the potential to lose most or all of the remaining spotted owl habitat in the analysis area is greater with this alternative, especially if climate change predictions, which include warmer and drier conditions for this area, come about."²⁷ Based on these assumptions, the Forest Service determined that the No Action Alternative in the long-term "may affect, and is likely to adversely affect" the NSO and critical habitat.

The incorporation of climate change impacts into the EA is a step in the right direction, but we believe that the assumptions within the EA do not fully incorporate climate change impacts. Instead, they seem to bias the analysis toward the proposed action. If future climate change impacts are to be considered, they should be considered in the other sections of the EA, not just where the probable impacts support the proposed action. For example, the EA does not mention the value of large trees for carbon storage, which is important for mitigating climate change. Also, future climate change impacts are not incorporated into the sections of the EA where they would likely weigh in favor of a less-impactful alternative.²⁸ Although we do not necessarily dispute the potential impacts of climate change in this area, how these impacts will manifest is uncertain. A catastrophic wildfire in this planning area, even without treatment, is not a guarantee. The uncertainty around the specifics of future climate change impacts supports the need for additional study and consideration of an alternative that better balances the need for climate change mitigation with impacts to wildlife habitat.

Roads

²⁵ EA at 102.

²⁶ EA at 102.

²⁷ Id.

²⁸ See "Roads" section of comments.

We are encouraged to see that the Forest Service has identified the need to locate and address unauthorized roads in the project area. Unauthorized usage of closed roads and illegal usercreated roads cause soil compaction, sedimentation to waterways, and habitat fragmentation, and is important to address. It is important that the Forest Service take steps to stop usage of these routes by blocking access and re-vegetate the area. We support the Forest Service taking steps to address these actions, and we hope to see unauthorized roads and illegal road usage addressed in future projects.

However, we have several concerns with the Forest Service's analysis of roads for this project. First, we believe by not identifying any roads for closure and/or decommissioning, the Forest Service is missing an opportunity to move the forest toward a more resilient future road system. Additionally, the proposed action includes 17.7 miles of new temporary roads, 9.4 miles of reconstructed temporary roads, and four stream crossings.²⁹ Temporary roads are not temporary in their impacts. The use of temporary roads should be minimized, and the Forest Service should consider eliminating units where the impacts of temporary roads outweigh the benefits of treatment. Throughout our involvement in the planning process we have requested that the Forest Service include road decommissioning and/or closures, and fewer or no temporary roads, in one of their action alternatives. The EA is deficient in its analysis of this issue, and we encourage the Forest Service to include an alternative that addresses these concerns.

I. The Proposed Action does not support the Forest Service's efforts to create a resilient future road system.

Identifying a resilient future road system is important to restore fish and wildlife habitat, facilitate adaptation to climate change, ensure reliable recreational access, and operate within budgetary constraints. It helps the Forest Service's budget by closing the gap between large maintenance needs and inadequate, and possibly declining, funding through congressional appropriations. It is a win for wildlife and natural resources because it reduces negative impacts from the forest road system, and the public benefits because removing unneeded roads from the landscape allows the agency to focus its limited resources on the roads we all use - improving public access across the forest and helping to ensure roads withstand strong storms.

We are concerned that the Forest Service has not identified any roads for closure or decommissioning in this project, and that the proposed action includes 17.6 miles of new and 9.4 miles of reconstructed temporary roads. We strongly believe that the agency should use a thoughtful, strategic approach to improving public access to the forest, reducing negative impacts from forest roads to water quality and aquatic habitats, and improving watersheds and forest resiliency.

Although consideration of concerns related to roads was briefly mentioned in the EA, an alternative that substantially reduces temporary road mileage or reduces the existing road

²⁹ EA at 37.

network was not developed.³⁰ The current impacts of roads on the landscape further support the need to close or decommission existing roads, and minimize the use of temporary roads for this project. The road system is a major contributor to sediment in aquatic ecosystems. Also, roads fragment wildlife habitat. As noted in the EA, elk and deer are less likely to use some of the available habitat in the area due to the road network.³¹ Also, the largest sources of sediment delivery related to the project are "expected to occur from the placement and removal of culverts for temporary road crossings or culvert upgrades, and from log haul, particularly when it occurs during wet conditions."³² Another concern with the temporary roads is that they will not be adequately decommissioned following implementation of the project. To the extent that temporary roads are included in the project, the Forest Service should confirm that they are decommissioned consistently with conditions described in the Mitigation Measures, including that the temporary roads be native trees and shrubs. Additionally, the Forest Service should carefully consider the impacts to recreation from new temporary roads and temporary roads that will be reconstructed on trails, and limit these impacts where possible.

While we are pleased to see that our concerns resulted in a reduction of three stream crossings and 1.3 trail miles used as temporary roads, we remain concerned that the EA does not analyze an alternative that substantially reduces new temporary road mileage by rerouting or changing the access to the units, or by eliminating units that require miles of temporary road for access. Priority roads that the Forest Service should consider for closure or decommissioning include roads with impacts on aquatic health due to stream fragmentation and/or sedimentation (8225731, 8225724, 8031028, last quarter mile of 8031037, 8031722, last 1.25 miles of 2300080, 2360720, 2300778) and road impacts for terrestrial flora and fauna (8040782, 8031762, 8031759). These are viable alternatives, and they should be analyzed in the EA.

II. As part of its analysis of the Upper White Salmon project under NEPA, the Forest Service must consider the Gifford Pinchot National Forest's travel analysis report, identify the minimum road system, and identify unneeded roads to prioritize for decommissioning or other uses.

The Forest Service faces many challenges with its 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. The Gifford Pinchot National Forest is no exception, with 4,055 miles of system roads, the required maintenance of which exceeds annual maintenance costs. The Gifford Pinchot National Forest estimates a deferred maintenance need of \$53.3 million. The Forest's annual maintenance needs are estimated at \$1.8 million, and the funding levels in 2015 were only \$1.3 million.³³

The Forest Service promulgated the Roads Rule (referred to as "subpart A") in 2001 to address its unsustainable and deteriorating road system.³⁴ Subpart A, meant to close the gap between the

³⁰ Id.

³¹ EA at 136.

³² EA at 168.

³³ Gifford Pinchot National Forest, Travel Analysis Report (<u>https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd486103.pdf</u>)

³⁴ 66 Fed. Reg. 3206 (Jan. 12, 2001); 36 C.F.R. part 212, subpart A.

agency's limited resources and the maintenance required to keep up its oversized and deteriorating road system, sets out two important obligations for the agency:

- (1) Identify unneeded roads to prioritize for decommissioning or to be considered for other uses; and
- (2) Identify the minimum road system needed for safe and efficient travel and for the protection, management, and use of National Forest system lands.

36 C.F.R. § 212.5(b). We urge the Forest Service to carefully evaluate the proposed Upper White Salmon Project through this lens.

Direction from the Forest Service's Washington Office required all forests to submit travel analysis reports by the end of FY 2015 and begin implementing the recommendations and working toward full compliance with subpart A.³⁵ We applaud the Gifford Pinchot National Forest for finalizing its travel analysis report in September 2015.³⁶ The next step under subpart A is even more important - consider the recommendations from the travel analysis report to identify the minimum road system³⁷ and identify unneeded roads for decommissioning. The Upper White Salmon project is a good opportunity to complete this next step.³⁸

To identify the minimum road system, the Forest Service must consider whether each road segment the agency decides to maintain on the system is needed to meet certain factors outlined in the agency's own regulations.³⁹ The agency should consider whether the road system is needed to:

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

36 C.F.R. § 212.5(b)(1). In assessing specific road segments, the Forest Service should also consider the risks and benefits of each road as analyzed in the travel analysis report, and whether the proposed road management measures are consistent with the recommendations from the

³⁵ See Memorandum from Leslie Weldon to Regional Foresters *et al.* on Travel Management, Implementation of 36 CFR Part 212, Subpart A (March 29, 2012)(hereafter 2012 Weldon Memo)

³⁶ Travel Analysis Report, Gifford Pinchot National Forest (September 2015)(

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd486103.pdf)

³⁷ 36 C.F.R. § 212.5(b)(1) ("In determining the minimum road system, the responsible official must incorporate a science-based road analysis at the appropriate scale").

³⁸ 2012 Weldon Memo at 2 ("The next step in identification of the [minimum road system] is to use the travel analysis report to develop proposed actions to identify the [minimum road system]. These proposed actions generally should be developed at the scale of a 6th code subwatershed or larger.").
³⁹ *Id.* Weldon Memo at 2012 ("analyze the proposed action and alternatives in terms of whether, per 36 CFR

³⁹ *Id.* Weldon Memo at 2012 ("analyze the proposed action and alternatives in terms of whether, per 36 CFR 212.5(b)(1), the resulting [road] system is needed"); ("The resulting decision [in a site-specific project] identifies the [minimum road system] and unneeded roads for each subwatershed or larger scale").

travel analysis report. To the extent that the final decision in this project differs from what is recommended in the travel analysis report, the Forest Service must explain that inconsistency.⁴⁰

The Forest Service must identify unneeded roads for decommissioning or other uses.⁴¹ Here, the Forest Service proposes no roads for closure or decommissioning. Road closures and/or closures in the project area are warranted based on current natural resource conditions, assessed risks from the existing road network, road densities across the landscape, the agency's limited resources, and long-term funding expectations.

III. The Forest Service should analyze an alternative that includes road closure and/or decommissioning, and substantial reduction of temporary roads, as part of a robust environmental analysis under NEPA.

The Forest Service should prepare a robust environmental analysis of the Upper White Salmon project, ensuring that it takes NEPA's required "hard look." The agency may not ignore topics if the information is uncertain or unknown. Where information is lacking or uncertain, the Forest Service must make clear that the information is lacking, the relevance of the information to the evaluation of foreseeable significant adverse effects, summarize the existing science, and provide its own evaluation based on theoretical approaches.⁴²

The Forest Service should clearly articulate the statement of purpose to include its duty to identify the minimum road system, unneeded roads for closure/decommissioning, and provide support for the claimed need. Applicable statutory and regulatory requirements should shape a project's statement of purpose and need. When the agency takes an action "pursuant to a specific statute, the statutory objectives of the project serve as a guide by which to determine the reasonableness of objectives outlined in an EIS."⁴³ Under subpart A of its travel rule, the Forest Service has a substantive duty to address its over-sized road system.⁴⁴ This underlying substantive duty must inform the scope of, and be included in, the agency's NEPA analysis. After more than 15 years since finalizing the subpart A rules, the Forest Service can no longer delay in addressing this duty.

Here, the Forest Service identified the need for the proposal as "a need to address resistance and resilience to wildfire, insects, and disease on National Forest System as well as neighboring lands. The Upper White project will compliment wildfire hazard-reduction and forest management on neighboring private lands in priority landscapes."⁴⁵ Neither the purpose and need, nor the project objectives, indicate the Forest Service's duty to identify the minimum road system and unneeded roads for closure/decommissioning. To not include this within the need or objectives of the proposal is inconsistent with subpart A.

⁴⁰ 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).

⁴¹ 36 C.F.R. § 212.5(b)(2).

⁴² 40 C.F.R. § 1502.22.

⁴³ Westlands Water Dist. v. U.S. Dept. of Interior, 376 F.3d 853, 866 (9th Cir. 2004).

⁴⁴ See 36 C.F.R. § 212.5.

⁴⁵ EA at 8.

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

The best available science shows that roads cause significant adverse impacts to National Forest resources. 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.⁴⁶ Erosion, compaction, and other alterations in forest geomorphology and hydrology associated with roads seriously impair water quality and aquatic species viability. 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. 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.

Climate change intensifies the impacts associated with roads. 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. 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.⁴⁷

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 Forest Service has a substantive duty under its own Forest Service Manual to establish resilient ecosystems in the face of climate change.⁴⁸ The Forest Service should analyze in detail the impact of climate change on forest roads and resources. The analysis here fails to address the cumulative impacts of climate change as they relate to forest roads on the landscape.

Riparian Reserves

⁴⁶ See The Wilderness Society, Transportation Infrastructure and Access on National Forests and Grasslands: A Literature Review (May 2014).

⁴⁷ Id. 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).

⁴⁸ See, e.g., FSM 2020.2(2) (directing forests to "[r]estore and maintain resilient ecosystems that will have greater capacity to withstand stressors and recover from disturbances, especially those under changing and uncertain environmental conditions and extreme weather events"); FSM 2020.3(4) ("[E]cological restoration should be integrated into resource management programs and projects . . . Primary elements of an integrated approach are identification and elimination or reduction of stressors that degrade or impair ecological integrity.").

Overall, we are satisfied with the proposed no-cut buffers and treatment within Riparian Reserves. We encourage the Forest Service to include a transition zone between the no-cut buffer and proposed treatment where the no-cut buffer is smaller than the full Riparian Reserve, especially where heavy thinning is prescribed. Although we would prefer to see the no-cut buffer for all riparian areas be a minimum of 100 ft, this transition zone may help to mitigate some of the impacts associated with a smaller no-cut buffer. Due to the rarity of wetlands in the planning area, we recommend that all wetlands – both larger and smaller than 1 acre – receive a no-cut buffer of 100ft.

This planning area also has the added consideration of the Upper White Salmon Wild and Scenic River corridor. The Comprehensive Resource Management Plan ("CRMP") for this corridor is currently being developed. Since the CRMP has not yet been finalized, the Forest Service should take a cautious approach to harvest within the corridor to ensure it is consistent with the Outstanding River Values in the designation.

Wilderness

We are concerned with the impacts of the project on the Mt. Adams Wilderness. The project contains units bordering the Mt. Adams Wilderness, and project activities in those units risk spreading invasive species into the Wilderness due to equipment used for thinning and fuels reduction.⁴⁹ Establishment of non-native or invasive species would reduce the natural Wilderness character of the area.⁵⁰ We request that the Forest Service reconsider the inclusion of Wilderness-adjacent units or redraw the boundaries of the units so that the Wilderness area is provided a more substantial buffer from the impacts of treatment. Due to this risk, we request that the Forest Service analyze an alternative that reduces these impacts by eliminating Wilderness-adjacent units (300474, 300380, 300368), or by providing a buffer by redrawing unit boundaries or eliminating use of this equipment near the Wilderness boundary. These measures are especially important for unit 300474, which the EA notes is especially susceptible to invasive species due to the Cascade Creek fire.⁵¹ Also, in these Wilderness-adjacent units, the EA states that there is "reason to be concerned that the proposed activities could inadvertently cross the boundary."⁵² The potential for "significant impact to the wilderness if any of the proposed activities inadvertently occurred within the congressionally-designated Mount Adams Wilderness" further supports the need for an alternative that protects the Wilderness area and the need for the Forest Service to prepare an EIS. A Wilderness designation is rare, and the high standard to achieve this designation indicates that this area should receive special care and protection from the Proposed Action

The draft EA is deficient in its analysis of alternatives to protect the Mt. Adams Wilderness, and the high risk of impacts to the wilderness from the project support the need for further analysis via an EIS.

- ⁵¹ Id.
- ⁵² Id.

⁴⁹ EA at 88.

⁵⁰ Id.

Conclusion

We believe this project requires further analysis and the preparation of an EIS because the proposed action contains elements that are highly controversial, impacts that may be both beneficial and adverse, lands with unique characteristics, unknown risks, and actions that impact federally-listed species to a significant degree. Additionally, the alternatives analysis presented in the EA is insufficient. We request that the Forest Service analyze and develop action alternatives that are less impactful, particularly as the project relates to roads, NSOs, and wilderness characteristics.

The Cascade Forest Conservancy greatly appreciates your consideration of our comments. We look forward to continuing to work with the Forest Service on this project.

Sincerely,

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Nicole Budine Policy and Campaign Manager