



April 27, 2018

Regional Forester
Objection Reviewing Officer
Pacific Northwest Region
USDA Forest Service
Attn: 1570 Appeals and Objection
PO Box 3623
Portland, OR 97208-3623
Submitted electronically through online comment system

Re: OBJECTION – Mission Restoration Project

To the Objection Reviewing Officer:

WildEarth Guardians submits the following objection to the U.S. Forest Service's decision to select Alternative 2, as analyzed in the Environmental Assessment (EA) assessing the Mission Restoration Project on the Methow Valley Ranger District of the Okanogan-Wenatchee National Forest. The Forest Service's March 2018 draft decision notice (Draft DN) and finding of no significant impact (FONSI) includes, *inter alia*, non-commercial thinning on 8,367 acres, commercial thinning on 1,853 acres, and prescribed fire on 10,219 acres across a project area of 50,200 acres. It also includes replacement of 23 culverts, beaver habitat enhancement on 8 sites, bridge replacement across West Fork Buttermilk Creek, decommissioning 21.4 miles of system roads (out of 118.9 total system roads in the project area), and decommissioning 12.1 miles of non-system roads (out of 15.8 miles of unauthorized). The project area is located in the Libby Creek and Buttermilk Creek drainages, and a small portion of the Twisp River Watershed. The responsible official is Michael Williams, Okanogan-Wenatchee Forest Supervisor.

As required by 36 C.F.R. § 218.8(d), the objector's name, address, telephone number and email:

Marla Fox
WildEarth Guardians
80 SE Madison, Suite 210
Portland, Oregon 97214
(651) 434-7737
mfox@wildearthguardians.org

1. Interests and participation of objecting party.

WildEarth Guardians is a nonprofit conservation organization with offices in Washington and five other states. WildEarth Guardians has more than 207,000 members and supporters across the United States and the world. Guardians protects and restores wildlife, wild places, wild rivers, and

the health of the American West. For many years, WildEarth Guardians has advocated that the Forest Service maintain a balance between access, risks, and costs when addressing its road system. We submitted timely comments on the Forest Service's draft EA.¹ Our comments advocated for thoughtful management of the agency's road system and its associated impacts to improve the health of watersheds and wildlife on the Okanogan-Wenatchee National Forest. We have organizational interests in the proper and lawful management of the forest road system and its associated impacts on the Okanogan-Wenatchee National Forest's wildlife and wild places.

2. We strongly support the Forest Service's efforts to create a resilient future road system.

WildEarth Guardians strongly supports the Forest Service's efforts here to address many of the factors that continue to degrade the project area. Specifically, we strongly support the agency's proposal to complete soil restoration treatments, replace 23 undersized culverts, enhance beaver habitat on 8 sites, restore coarse woody debris on 8.2 miles of fish-bearing stream channels, and decommission 21.4 miles of system roads and 12.1 miles of non-system roads. As noted in our comments, however, and below in subsection (d), road activities identified under Alternative 3 will provide greater benefit than those identified in the Forest Service's selected Alternative 2. *See* EA Comment at 9-10.

We strongly support the agency's 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. Identifying a resilient future road network is one of the most important endeavors the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, ensure reliable recreational access, and operate within budgetary constraints. And it is a win-win-win approach: (1) it's a win for the Forest Service's budget, closing the gap between large maintenance needs and drastically declining funding through congressional appropriations; (2) it's a win for wildlife and natural resources because it reduces negative impacts from the forest road system; and (3) it's a win for the public 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 ensure roads withstand strong storms.

3. Issues and parts of decision to which the objection applies.

As presented in part 4 below, we believe the Forest Service's decision, including the Draft DN, FONSI, and EA, violates law, regulation, or policy because it:

- a. Fails to adequately or fully address and respond to comments in a meaningful way;
- b. Does not identify the minimum road system;
- c. Unreasonably adds unauthorized roads to the road system in a process focused on right-sizing an already unaffordable road network;
- d. Does not consider cumulative impacts of climate change and forest roads; and
- e. Fails to ensure compliance with the Endangered Species Act.

¹ March 1, 2017 WildEarth Guardians Comments on Mission Restoration Project Preliminary Environmental Assessment and Forest Plan Amendments, submitted to Michael Williams, Forest Supervisor (hereafter, "EA Comment").

² *See* Memorandum from Leslie Weldon to Regional Foresters *et al.* on Travel Management, Implementation of 36 CFR, Part 212, Subpart A (Mar. 29, 2012) (explaining "The next step in identification of the [minimum road system] is to use

4. Objections and suggested remedies.

a. Failure to adequately or fully address and respond to comments in a meaningful way.

The Forest Service fails to meaningfully respond to many of our comments in violation of NEPA's implementing regulations. This concern was not raised in our comments because it relates to the Forest Service's response to comments, after the close of the official comment period. For example:

- We urged the Forest Service to consider the recommendations from the Okanogan-Wenatchee's forest-wide Travel Analysis Report as part of its assessment of the forest road system in the project area. EA Comment at 3. The Forest Service's analysis mentions the forest-wide Travel Analysis Report and states that it was considered in developing recommendations for forest roads in this project. *See* EA at 232. But it does not show how the agency considered or applied recommendations from the Travel Analysis Report. Our comments asked the Forest Service to include the risk and benefit analysis from the travel analysis report for each road segment in the draft EA Figure 136 (Appendix B). The Forest Service failed to respond to this comment.
- Our comments highlighted the Forest Service's duty to identify the minimum road system for the project area. EA Comment at 3-4. The Forest Service mentions a minimum road analysis, EA at 2, and references the minimum road system in its table comparing alternatives, EA at 36-37. However, the agency never states that it is identifying the minimum road system as part of this project. It fails to address the substance of our comment.

Suggested Resolution: Revise the EA and Draft DN to meaningfully respond to and address public comments.

b. Does not identify the minimum road system.

We urged the Forest Service to identify the minimum road system for the project area, based on the factors defining a minimum road system as set forth in subpart A of the Forest Service's travel rules and in light of the Okanogan-Wenatchee's forest-wide travel analysis report. EA Comment at 3-4. As noted above in subsection (a), the Forest Service mentions the minimum road system, but never states that it is identifying the minimum road system as part of this decision. The express language of the agency's own regulations require "[f]or each national forest . . . the responsible official *must* identify the minimum road system needed for safe and efficient travel." 36 C.F.R. § 212.5(b)(1) (emphasis added). The Forest Service has failed to do so.

Deferring identification of the minimum road system to a future date is illogical here, where the NEPA analysis supporting this roads decision is based on specific facts demonstrating risks, benefits and demand for roads in the area, and the current process includes the public in the agency's decision making. Deferring the decision would also further unduly delay compliance with subpart A, which has been a Forest Service duty for more than 15 years.

Suggested Resolution: To comply with its own regulations and directive memoranda from the Forest Service's Washington Office,² the Forest Service should take this opportunity to clearly identify the minimum road system for the project area based on the factors listed at 36 C.F.R. § 212.5(b)(1). Identifying a minimum road system is one of the most important endeavors the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, ensure reliable recreational access, and operate within budgetary constraints. Short of that, the Forest Service must revise the Draft DN, EA, and Response to Comments to clarify that the Okanogan-Wenatchee National Forest has not yet identified the minimum road system. And it should provide a date-certain timeline for achieving compliance with subpart A.

c. Unreasonably adds unauthorized roads to the road system in a process focused on right-sizing an already unaffordable road network.

Guardians' comments urged the Forest Service not to add unauthorized roads to its forest road system in a process focused on right-sizing an already unaffordable and under-maintained road network. EA Comment at 5. The purposes for this project include, *inter alia*, to “[r]estore and maintain aquatic and hydrologic processes impacted by management, improve habitat for Threatened and Endangered aquatic species, and increase watershed resiliency to existing and anticipated disturbances,” and “[p]rovide the road system needed for safe and efficient travel, administration, public use, and protection of natural resources on National Forest System (NFS) lands, now and in the future.” Draft DN at 5. The Forest Service states there is a need for this project, in part, because “[s]everal roads currently add sediment, increase the drainage network, block fish migration, and reduce woody debris recruitment in the project area.” Draft DN at 5. It also states that “[e]xisting undersized culverts present risk for road failure and sediment delivery to streams,” and that “[t]he existing road network costs more to maintain than is available in road maintenance funding.” *Id.*

Adding unauthorized roads to the system is unreasonable because it is inconsistent with the purposes and needs for this project. It is also inconsistent with Forest Service policy under subpart A to work towards a minimum road system, and the agency fails to provide the justification necessary for adding unauthorized routes to the system as set forth in Forest Service Manual (FSM) and Forest Service Handbook (FSH).

We also explained how the road activities identified under Alternative 3 will provide the greatest benefit. EA Comment at 9-10. Compared with the proposed Alternative 2, which would adopt 3.6 miles of unauthorized roads onto the system, Alternative 3 would adopt only 2.7 miles onto the system. Based on the data set forth in our EA Comment, Alternative 3 is better designed to achieve the statement of purpose and need. As noted in the next section, we also question whether these numbers are even accurate, given the discrepancies among the Forest Service's numbers regarding unauthorized roads, use of temporary roads, and decommissioning of unauthorized roads.

Suggested Resolution: Revise the EA and Draft DN to not add unauthorized routes to the official forest road system. In the very least, modify Alternative 2 to adopt the environmentally preferable approach from Alternative 3 of adding only 2.7 miles of unauthorized roads to the road network.

² See Memorandum from Leslie Weldon to Regional Foresters *et al.* on Travel Management, Implementation of 36 CFR, Part 212, Subpart A (Mar. 29, 2012) (explaining “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].”) (emphasis added).

d. Does not consider cumulative impacts of climate change and forest roads and fails to accurately disclose and consider the impacts from the use of unauthorized roads.

An EA must disclose the environmental impacts of the proposed action and any alternatives. 40 C.F.R. § 220.7(b)(3). We urged the Forest Service to consider the cumulative impacts of climate change and forest roads, including how climate change is 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. EA Comment at 8-9. The Forest Service fails to address cumulative impacts of climate change and forest roads, instead focusing on climate change impacts and increased risk of wildfire as justifying the need for vegetation management. *Compare*, EA at 176-177 and 324-325 (determining greenhouse gas emissions from vegetation management and log hauling activities will be negligible and offset by increased forest resilience) *with* EA at 231-242 (assessing the environmental impacts of the proposed transportation system and its alternatives, but excluding cumulative impacts from climate change).

The majority of Guardians' comments highlighted concerns with the Forest Service's transportation system in the project area and proposed actions related to it. Yet in reviewing the final EA, it appears the Forest Service failed to accurately disclose the proposed use of unauthorized roads, temporary roads, and decommissioning. The details provided in the draft EA made it seem as if under Alternative 2 the Forest Service would add 3.6 miles of unauthorized roads to the system, Alternative 3 would add 2.7 miles of unauthorized roads, and both action alternatives would use only 1.2 miles of temporary roads. Yet in the final EA, the Forest Service states that 16 miles of unauthorized roads will be used during the logging and log hauling activities. Essentially, the Forest Service plans to rely on the use of unauthorized roads (even if illegally created) in place of temporary roads. We object to this approach, but especially to the skewed disclosure of road numbers that failed to accurately disclose the nature of the agency's proposal. Ultimately this precludes meaningful public comment.

Suggested Resolution: Revise the analysis in the EA to fully disclose the cumulative impacts of climate change (including localized changes in precipitation patterns) and forest roads, both system and temporary. Also revise the analysis in the EA and the Draft DN to accurately and clearly disclose the proposed actions related to roads, including use of unauthorized routes during the project and the impacts of logging hauling on unauthorized routes.

e. Fails to ensure compliance with the Endangered Species Act.

Our comments stated our strong support for reducing the negative impacts from forest roads to water quality and aquatic habitats and improving watersheds and forest resiliency, especially through the road actions proposed in Alternative 3. *See, e.g.*, EA Comment at 2, 7-10 (impacts from forest roads and supporting Alternative 3 due to preferred environmental impacts). The Forest Service has an independent legal duty to ensure this project complies with the Endangered Species Act, which includes ensuring the proposed forest road actions and use of forest roads for log hauling are "not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of" habitat designated as critical for the species. 16 U.S.C. § 1536(a)(2).

The Forest Service states it made a “may affect, not likely to adversely affect” determination for Spring Chinook, Canada lynx, grizzly bear, and Northern Spotted Owl. It states that it initiated informal consultation with the U.S. Fish and Wildlife Service and National Marine Fisheries Service in February 2018, and anticipates receiving a letter of concurrence before signing the DN. Draft DN at 9. We are unable to comment on the substance of the Forest Service’s consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (collectively, “Services”) because the consultation documents were not available during the public notice and comment period, and are not available during this objection period.

Suggested Resolution: Provide the consultation documents, both the Forest Service’s Biological Assessment and any response, including concurrence letters, from the Services to the public and allow for comment on the substance of these documents. It is arbitrary and capricious to cut this process out of the notice and comment period without providing a basis for the public to understand whether the Forest Service is ensuring compliance with Section 7 of the ESA.

Conclusion

WildEarth Guardians appreciates your consideration of the information and concerns addressed in this objection. Pursuant to 36 C.F.R. § 218.11, we respectfully request to meet with the reviewing officer to discuss these concerns and suggested resolutions. Should you have any questions, please do not hesitate to contact us.

Sincerely,



Marla Fox
Rewilding Attorney
mfox@wildearthguardians.org

Attachments

Attachment A: Memorandum from Leslie Weldon to Regional Foresters *et al.* on Travel Management, Implementation of 36 CFR, Part 212, Subpart A (Mar. 29, 2012).



Forest
Service

Washington
Office

1400 Independence Avenue, SW
Washington, DC 20250

File Code: 2300/2500/7700

Date: March 29, 2012

Route To:

Subject: Travel Management, Implementation of 36 CFR, Part 202, Subpart A (36 CFR 212.5(b))

To: Regional Foresters, Station Directors, Area Director, IITF Director, Deputy Chiefs and WO Directors

This letter is to reaffirm agency commitment to completing a travel analysis report for Subpart A of the travel management rule by 2015 and update and clarify Agency guidance. This letter replaces the November 10, 2010, letter on the same topic.

The Agency expects to maintain an appropriately sized and environmentally sustainable road system that is responsive to ecological, economic, and social concerns. 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.

Forest Service regulations at 36 CFR 212.5(b)(1) require the Forest Service to identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System (NFS) lands. In determining the minimum road system, the responsible official must incorporate a science-based roads analysis at the appropriate scale. Forest Service regulations at 36 CFR 212.5(b)(2) require the Forest Service to identify NFS roads that are no longer needed to meet forest resource management objectives.

Process

Travel analysis requires a process that is dynamic, interdisciplinary, and integrated with all resource areas. With this letter, I am directing the use of the travel analysis process (TAP) described in Forest Service Manual 7712 and Forest Service Handbook (FSH) 7709.55, Chapter 20. The TAP is a science-based process that will inform future travel management decisions. Travel analysis serves as the basis for developing proposed actions, but does not result in decisions. Therefore, travel analysis does not trigger the National Environmental Policy Act (NEPA). The completion of the TAP is an important first step towards the development of the future minimum road system (MRS). All NFS roads, maintenance levels 1-5, must be included in the analysis.

For units that have previously conducted their travel or roads analysis process (RAP), the appropriate line officer should review the prior report to assess the adequacy and the relevance of their analysis as it complies with Subpart A. This analysis will help determine the appropriate scope and scale for any new analysis and can build on previous work. A RAP completed in accordance with publication FS-643, "Roads Analysis: Informing Decisions about Managing the



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National Forest Transportation System,” will also satisfy the roads analysis requirement of Subpart A.

Results from the TAP must be documented in a **travel analysis report**, which shall include:

- A map displaying the roads that can be used to inform the proposed action for identifying the MRS and unneeded roads.
- Information about the analysis as it relates to the criteria found in 36 CFR 212.5(b)(1).

Units should seek to integrate the steps contained in the Watershed Condition Framework (WCF) with the six TAP steps contained in FSH 7709.55, Chapter 20, to eliminate redundancy and ensure an iterative and adaptive approach for both processes. We expect the WCF process and the TAP will complement each other. The intent is for each process to inform the other so that they can be integrated and updated with new information or where conditions change. The travel analysis report described above must be completed by the end of FY 2015.

The next step in identification of the MRS is to use the travel analysis report to develop proposed actions to identify the MRS. These proposed actions generally should be developed 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.

The administrative unit must analyze the proposed action and alternatives in terms of whether, per 36 CFR 212.5(b)(1), the resulting road system is 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;
- Ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.

The resulting decision identifies the MRS and unneeded roads for each subwatershed or larger scale. The NEPA analysis for each subwatershed must consider adjacent subwatersheds for connected actions and cumulative effects. The MRS for the administrative unit is complete when the MRS for each subwatershed has been identified, thus satisfying Subpart A. To the extent that the subwatershed NEPA analysis covers specific road decisions, no further NEPA analysis will be needed. To the extent that further smaller-scale, project-specific decisions are needed, more NEPA analysis may be required.

A flowchart displaying the process for identification of the MRS is enclosed with this letter.

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Timing

The travel analysis report **must be completed by the end of FY 2015**. Beyond FY 2015, no Capital Improvement and Maintenance (CMCM) funds may be expended on NFS roads (maintenance levels 1-5) that have not been included in a TAP or RAP.

Leadership

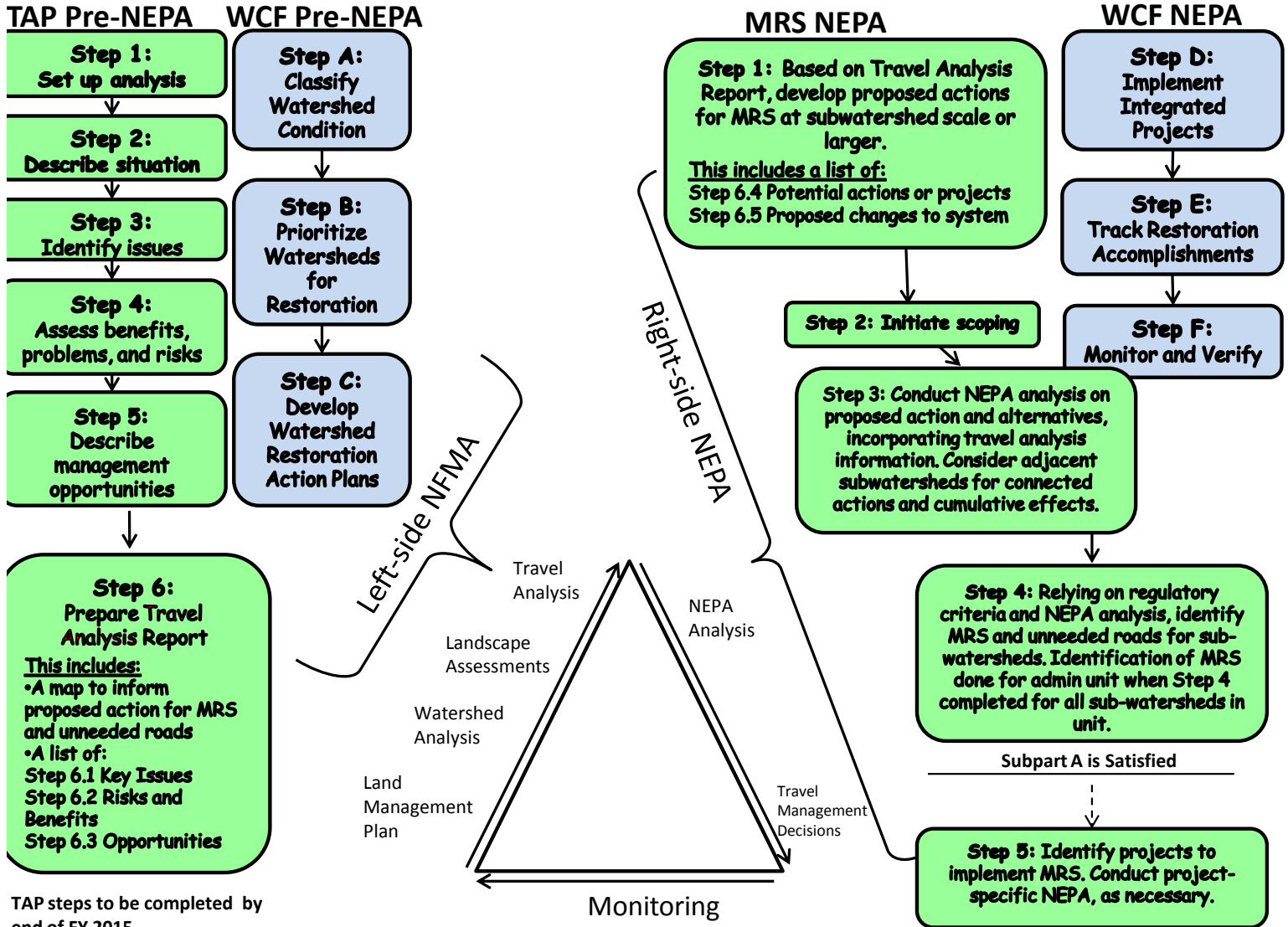
The Washington Office lead for Subpart A is Anne Zimmermann, Director of Watershed, Fish, Wildlife, Air and Rare Plants. Working with her on the Washington Office Steering Team are Jim Bedwell, Director of Recreation, Heritage, and Volunteer Resources, and Emilee Blount, Director of Engineering. I expect the Regions to continue with the similar leadership structures which have been established.

Your leadership and commitment to this component of the travel management rule is important. Together, we will move towards an ecologic, economic, and socially sustainable and responsible national road system of the future.

/s/ James M. Pena (for):

LESLIE A. C. WELDON

Deputy Chief, National Forest System



TAP steps to be completed by end of FY 2015