



WWP Nevada-Oregon
PO Box 12356
Reno, NV 89510
(208) 421-4637
paul@westernwatersheds.org

Working to protect and restore Western Watersheds and Wildlife

April 27, 2018

By electronic submission via the Forest Service online comment system:
<https://cara.ecosystem-management.org/Public/CommentInput?Project=49201>

Attn: Objection Reviewing Officer
Pacific Northwest Region
USDA Forest Service

Re: Mission Restoration Project Objection

Dear Reviewing Officer:

Western Watersheds Project (WWP) submits this objection to the Final Environmental Assessment (EA), Draft Decision Notice and Finding of No Significant Impact (FONSI) for the Mission Restoration Project and Forest Plan Amendment #59, issued March 15, 2018.

WWP works to protect and conserve the public lands, wilderness, wildlife and natural resources of the American West through education, scientific study, research, public policy initiatives, and litigation. Western Watersheds Project and its members use and enjoy the public lands, including the lands at issue here, and its wildlife, cultural and natural resources for health, recreational, scientific, spiritual, educational, aesthetic, and other purposes. Western Watersheds Project has over 5,000 members and supporters nationwide.

WWP submits this objection pursuant to 36 C.F.R. § 218 et seq. We request a meeting with the reviewing officer to discuss and resolve these objections. 36 C.F.R. § 218.11(a). We previously submitted scoping comments on the Mission Restoration Project on June 9, 2016. Those comments are attached, and our objections are based on the issues previously raised by WWP as well as our review of the documents listed above.

Objector's name and address:

Paul Ruprecht
Western Watersheds Project
PO Box 12356
Reno, NV 89510
(208) 421-4637
paul@westernwatersheds.org

Responsible Officials:

Michael R. Williams
Michael C. Liu

Objection 1—Failure to undertake an EIS as required by NEPA

NEPA is our "basic national charter for protection of the environment." 40 C.F.R. § 1500.1(a). It serves two purposes: (1) "it ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts," and (2) it "guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that decision." *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752, 768 (2004) (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989)).

NEPA requires that agencies prepare an Environmental Impact Statement ("EIS") for all "major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(C). If "an agency's regulations do not categorically require the preparation of an EIS, then the agency must first prepare an EA to determine whether the action will have a significant effect on the environment." *Metcalf v. Daley*, 214 F.3d 1135, 1142 (9th Cir. 2000). The EA must provide sufficient evidence and analysis for the agency to determine whether to prepare an EIS or to issue a FONSI. *Id.* at 1145; *see also* 40 C.F.R. § 1508.9 (describing EA purposes). An agency may avoid an EIS only if the action will have "no significant impact." 40 C.F.R. §§ 1508.9(a)(1), 1508.13.

WWP requested that the Forest Service analyze the proposed action in an EIS because the action is likely to significantly affect the environment. We provided some examples of the significance of the proposal, including its intensity and extent (50,000+ acres), the presence of a number of listed species, logging in old growth and roadless areas, the stated requirement for a Forest Plan amendment to implement it, and the fact that the logging proposal is controversial. It is controversial because many people are opposed to it, and they dispute the claimed benefits and justifications promoted by the Forest Service, which are scientifically controversial. All of these factors are still present, and the Forest Service's FONSI is therefore arbitrary and capricious.

Suggested resolution: Undertake an EIS because impacts to the environment are significant or are potentially significant.

Objection 2—Failure to consider a reasonable range of alternatives

NEPA mandates that federal agencies "[s]tudy, develop, and describe alternatives to recommended courses of action in any proposal which involves conflicts concerning alternative uses of available resources." 42 U.S.C. § 4332(2)(E). One of the primary purposes of an EIS is to "inform decisionmakers and the public of the reasonable alternatives which would avoid or minimize adverse impacts or enhance the quality of the human environment." 40 C.F.R. § 1502.1.

The alternatives analysis is “the heart of the environmental impact statement,” *id.* § 1502.14. The purpose of analyzing alternatives is to “present the environmental impacts of the proposal and the alternatives” and to “thus sharply defin[e] the issues and provid[e] a clear basis for choice among options by the decisionmaker and the public.” 40 C.F.R. § 1502.14. To that end, the agency must “[r]igorously explore and objectively evaluate all reasonable alternatives.” *Id.*

If an alternative is eliminated from detailed study, the agency must “briefly discuss [its] reasons” for doing so. 40 C.F.R. § 1502.14(a). Courts will overturn NEPA documents that fail to consider a reasonable range of alternatives. *Western Watersheds Proj. v. Abbey*, 719 F.3d 1035, 1050-53 (9th Cir. 2013).

In our scoping comments, WWP requested that the Forest Service analyze a range of alternatives that would meet the stated purpose and need for the project, including:

- Restoration through cessation of livestock grazing within the affected watersheds;
- Targeted thinning and fuel removal only in close proximity to structures, homes, or other discrete, defined areas in need of protection from fires rather than large-scale thinning that is unlikely to effectively protect those areas;
- Road decommissioning and fish passage improvements as stand-alone projects; and
- Use of prescribed burning to provide restoration benefits and carbon storage, with burned trees left on site.

Unfortunately, the Forest did not analyze these alternatives, and provided insufficient justification for rejecting them.

For example, the EA says the analysis of reduced livestock grazing would not meet the purpose and need of the project. But among the purposes of the project are protection and improvement of watershed health, fish habitat, soils, and native wildlife including sensitive and/or listed species. Since livestock grazing is a documented threat to the integrity of each of these, the EA’s rationale is simply not reasoned.

Further, since one justification for the action is to create new grazing opportunities so that livestock spend less time loafing in and degrading sensitive riparian areas, an alternative to reduce grazing is clearly within the scope of the project because it may accomplish the same thing as logging to create new areas for livestock, i.e., lessen the impact on waterways and riparian areas. Removal of grazing coupled with hands-off forest management and active restoration through removal of roads in fixing fish passage is the most likely action to benefit threatened and endangered aquatic species.

The Forest Service also rejected our suggestion of authorizing thinning only in the urban interface. The EA says that such an alternative would not meet watershed health and other purposes. WWP disagrees that logging is needed to maintain or restore forest health, but even if that were true, the Forest Service may choose to implement certain components of a proposal, even if a less comprehensive action than proposed does not meet every stated

purpose or need.

The EA does not appear to address our other suggested alternatives at all.

Suggested resolution: analyze the reasonable alternatives that WWP proposed in an EIS in order to comply with NEPA.

Objection 3—Reliance on faulty and/or unclear initial determinations of impacts to listed species and critical habitat, including findings of “not likely to adversely affect”

Under Section 7 of the ESA, a federal agency that authorizes an activity that may affect a listed species or critical habitat must consult with the Fish and Wildlife Service or National Marine Fisheries Service (NOAA Fisheries) over the impacts of that activity to ensure that it does not jeopardize the continued existence of the species or result in the destruction or adverse modification of critical habitat. 16 U.S.C. § 1536(a)(2). Jeopardize means to reduce appreciably the likelihood of either the survival or recovery of the species in the wild by reducing the reproduction, numbers, or distribution of the species. 50 C.F.R. § 402.02; *Nat’l Wildlife Fed’n v. Nat’l Marine Fisheries Serv.*, 524 F.3d 917, 932–33 (9th Cir. 2008).

There are apparently unresolved questions about the impacts to listed species. On one hand, the Forest Service says in the “consultation” section of the Draft Decision Notice that it determined that its action would not adversely affect several species. In particular, it says it determined that the action was not likely to adversely affect Endangered Spring Chinook salmon or its critical habitat. This species is greatly struggling, and any negative impacts are likely to adversely impact its continued viability in these watersheds. The project authorizes ground disturbance that will promote sedimentation (which is already very high in some areas); removes woody materials that could otherwise eventually provide cover and structure for salmonids, may directly impact fish through operations, and has the potential to promote livestock grazing that will negatively impact the species. While promoting beaver activity, reclaiming roads, and improving fish passage will help Spring Chinook, the other impacts are likely to negatively impact the species.

However, later in the Draft Decision Notice—under intensity factor 9—the Forest Service says it made a “may affect, likely to adversely affect” determination for these species, in addition to Upper Columbia steelhead and bull trout.

Also, it is not clear where the Forest Service specifically made its findings with respect to listed species and their critical habitat, as no biological assessment appears to be available on the project website, although the Draft Decision Notice states that it is part of the record.

The Draft Decision Notice states that consultation was initiated over likely adverse impact to bull trout and summer steelhead, but states that “a letter of concurrence will be received prior to signing the Decision Notice.” In this circumstance, the Forest Service may not proceed pursuant to a letter of concurrence, but instead NOAA Fisheries and the Fish and Wildlife Service must issue a biological opinion for these species.

Suggested Resolution: Resolve discrepancy in Draft Decision Notice over impacts to listed species. Re-evaluate finding for Spring Chinook, Spotted Owl, and Canada Lynx and/or their designated critical habitat and reach a rational and scientifically valid determination. Continue formal consultation with the agencies over the “likely to adversely impact” determination for summer steelhead and bull trout and/or other species. Do not proceed prior to the issuance of a biological opinion. Provide the public with the relevant biological assessments.

Thank you for your consideration of these objections. We look forward to working with you to resolve them.

Sincerely,

s/ Paul Ruprecht
Western Watersheds Project



Portland Office

126 NE Alberta St., Suite 208

Portland, OR 97211-2665

tel: (208) 421-4637

fax: (208) 475-4702

email: paul@westernwatersheds.org

web site: www.westernwatersheds.org

Working to protect and restore Western Watersheds and Wildlife

June 9, 2016

By online submission to: comments-pacificnorthwest-okanagan-methowvalley@fs.fed.us

District Ranger Michael Liu
Attn: Team Leader Meg Trebon
Methow Valley Ranger District
24 West Chewuch Rd.
Winthrop, WA 98862

Re: Mission Restoration Project

Dear District Ranger Liu and Team Leader Trebon:

Thank you for the opportunity to comment on the Mission Restoration Project. Please accept the following scoping comments on behalf of Western Watersheds Project (WWP). We also ask that you add WWP to the mailing/contact list for this project, as we wish to receive all future notices and planning documents. Please use the address and email in the letterhead.

WWP works to protect and conserve the public lands, wildlife, and natural resources of the American West through education, public policy initiatives, and litigation. WWP and its staff and members use and enjoy the public lands in Washington, and its wildlife, cultural, and natural resources for health, recreational, scientific, spiritual, educational, aesthetic, and other purposes. This includes those public lands in the Okanogan-Wenatchee National Forest and in the Libby Creek and Buttermilk Creek watersheds on the Methow Ranger District in particular.

Decommissioning roads would benefit the landscape. WWP supports the proposed decommissioning of roads within the project area, as well as replacing culverts with streambed passage. These are important goals for resident and migratory fish, as well as the health of the watersheds as a whole. Specifically, closing and rehabilitating roads will reduce sediment runoff, as well as reduce motorized access, providing higher quality recreation opportunity. In fact, we urge you to decommission even more roads than proposed.

However, we reject a number of the basic premises asserted in your scoping letter and believe you should decline to pursue the other aspects of this project further.

Passive restoration through removal of livestock. First, we oppose any vegetation manipulation for the purpose of increasing forage for livestock permitted on public lands. Any increase in grazing (livestock numbers, season of use, or authorized AUMs) that corresponds to

an increase in forage due to the Mission Project would work directly against the goals of soil productivity and hydrologic function, aquatic habitat, and other habitat for wildlife, including special status species. Livestock grazing is a well-known cause of harmful impacts to all of these values including introduction of weeds, sedimentation, lowered water tables, and changes in vegetation composition. Undoubtedly, the Forest Service could benefit the habitat and natural systems within the project area significantly more through reduction or elimination of livestock grazing than through any of the proposed actions. Therefore, WWP supports passive restoration of these watersheds through reduced grazing.

Further, we question the stated reasons for this project, as well as its likely effectiveness in achieving the stated restoration goals. At bottom, this is a logging project. While the Forest Service gives a number of restoration and other purposes besides harvesting forest projects, most of these restoration goals would be best accomplished through a hands-off approach in which the Forest Service allowed natural processes (including fire) to play out over time. As noted above, exceptions that do warrant active management include reclaiming roads and replacing culverts with natural fish passage.

Large fires are critical to forest health. Standing dead and down wood is vital to forests. Many species of birds, mammals, insects, and other species rely mainly or solely on this type of habitat. Many species prefer severely burned forests. Fires also provide the major input of woody debris required for quality salmonid habitat. Most forest types require severe wildfire on very long return intervals. Therefore, frequent, low intensity fires are not needed. Fuel accumulation is normal and natural, and thinning degrades forests rather than restoring them, because it removes the fuel needed for large fires. Also, dead wood (even burned wood) stores carbon. However, logging removes this biomass and potential carbon storage.

Thinning may actually increase fires. Even if fire reduction/prevention was actually desirable in this area, thinning may have unintended effects. Studies have shown that mechanical thinning can exacerbate fire spread by adding fuels on the ground. Opening up the canopy can dry out vegetation faster, and promote more “fuel” growth because of more sunlight. Also, fewer trees allow more wind to penetrate through the forest, contributing to vegetation drying sooner, and providing conditions needed for larger wildfires.

Thinning requires continued maintenance to be effective at stopping fires. To the extent that thinning in order to prevent fires is actually desired, and would be effective at stopping fires over the short-term, WWP calls your attention to the fact that regular maintenance would be required in order to keep the treatments effective over the long term. Does the Forest Service have guaranteed funding to repeat thinning or prescribed burning at intervals of 5-10 years from now on?

Focus thinning around homes or buildings. If thinning or other treatments are undertaken, WWP strongly recommends that they be strategically located as buffers around communities or homes, and nowhere else. This would be the most effective means of preventing loss of property in the urban interface, the most cost-effective, and the least environmentally damaging type of fuel reduction project.

Ultimately, thinning will not stop large fires. Thinning could help stop or slow down fires under moderate conditions where fires will not grow large anyway. In many cases, fires would go out on their own, or would stay small. However, when conditions are ripe for large fires to occur—high temperatures, high winds, and low relative humidity—no amount of prevention will stop fires from burning because large fires are climate-driven, not fuel driven. Fires will burn through clearcuts, or spot over them. Active fire suppression cannot even stop fires under extreme conditions.

In sum, the best strategy is to focus any fuels projects directly around communities, and allow fires to burn on the remainder of public forest lands, providing the ecological benefits that result from fires.

EIS required. The Mission Project requires an Environmental Impact Statement (EIS) to analyze the direct, indirect and cumulative impacts on the environment. An EIS is required due to the context and intensity of the proposal, which includes a project area of over 50,000 acres and more than 10,000 acres of logging. It also proposes logging in Late Successional Reserves, Riparian Reserves, Forest Plan Old Growth, Inventoried Roadless Areas, and in areas where Northern spotted owl, Chinook salmon, steelhead, bull trout, and other special status species may be present. In addition, the proposal requires a number of Forest plan amendments. The Mission proposal is also controversial. These factors demand analysis through an EIS.

Range of reasonable alternatives. In the EIS, the Forest Service should consider a full range of reasonable alternatives to its proposal. 40 C.F.R. § 1502.14. In addition to a no-action alternative, the Forest Service should consider:

- 1) An alternative that significantly reduces or eliminates livestock grazing for the period of the Forest Plan, or at least one permit cycle (10 years). This alternative would meet the need to restore degraded habitat and ecological function through passive restoration.
- 2) An alternative that decommissions roads and fixes fish passage, without any level of logging or prescribed burning. This alternative would also meet the purpose and need for the project by promoting passive restoration and natural forest succession as an alternative to active management.
- 3) An alternative that employs thinning or prescribed burning only within a narrow buffer around communities, houses, or other property in the urban interface. This would meet any need to reduce fires that pose a risk to private property without the corresponding negative impacts on the public land that large scale logging and fuel reduction would have.
- 4) An alternative that relies only on prescribed burning, without logging. This would allow dead and burned wood to remain onsite, providing habitat to a number of species and providing carbon storage. It would also reduce impacts from logging like introduction of weeds and sedimentation.

- 5) Alternatives that do not require amending the Forest Plan. These could meet the stated purpose and need without compromising standards originally determined in the Forest Plan.

Prior commitment of resources. Since the Forest has already proposed a Forest Plan revision, and is in the process of undertaking it, the Mission Project is an inappropriate commitment of resources outside of that process. By evaluating and approving the Mission Project now, the Forest Service will act prematurely and irretrievably commit resources before the Forest Plan revision is approved. This may prejudice selection of reasonable alternatives within the Forest Plan revision process or predetermine its outcome in violation of NEPA. 40 C.F.R. §§ 1502.2(e); 1506.1(a)(2).

Section 7 Consultation required. The proposed action is within designated critical habitat for Northern Spotted Owl (Unit 7, Subunit ECN 1); Upper Columbia River Spring-run Chinook salmon ESU; Upper Columbia River steelhead (Twisp River and Lower Methow River Watersheds); and bull trout (Unit 10, Upper Columbia River Basins). Because this project may affect these listed species or their designated critical habitat, under the Section 7 of the Endangered Species Act, the Forest Service must conduct a biological assessment to determine if the project is likely to adversely affect those species, or destroy their habitat. 16 U.S.C. § 1536. Of course, this is also true for any other listed species that the proposed action may affect.

Thank you for considering these comments. Please contact me if you have any questions.

Sincerely,

s/Paul Ruprecht
Staff attorney
Western Watersheds Project

Copies: Travis Bruner, WWP