August 9, 2018

Randy Moore Regional Forester USDA Forest Service Attn: Hancock Forest Management Road Access 1323 Club Drive Vallejo, CA 94592

RE: Hancock Forest Management Road Access per 36 CFR 218.8

- Project Name: Hancock Forest Management Access Road Project
- Responsible Official: Alonzo Jackson
- Happy Camp/Oak Knoll Ranger District

Thank you for accepting this Objection pursuant to 36 C.F.R. § 218 from the Klamath Siskiyou Wildlands Center (KS Wild), the Klamath Forest Alliance and the Environmental Protection Information Center regarding elements of the Hancock Forest Management Road Access draft decision document. For the purpose of this Objection KS Wild is the "lead objector."

Scope of this Objection

As per 36 C.F.R. § 218, this Objection applies to the draft decision notice and finding of no significant impact (DN/FONSI) and the environmental assessment (EA). This draft decision will result in the clearing and construction of 250 feet of new road access across national forest system (NFS) lands by AP Timber LLC, hereby AP Timber, to access its property. Further, 2,500 feet of an existing non-system road bed will be reconstructed. Encompassing 4.9 acres of land, this project will have significant, long-term ecological effects on the surrounding environment.

Objection Point #1: Failure to recognize that AP Timber already has reasonable access

The objectives in FSM 2700 for road and trial rights-of-way grants states:

The objectives of granting rights-of-way for roads and trails are to: ... 2. Accommodate the access needs for the protection, development, and utilization of lands and resources owned by private interests ... when the planned forest development road system and public road system do not meet those needs adequately.

... 5. Provide access across National Forest System land to private land that is adequate to secure the owners thereof of reasonable use and enjoyment of their land without unnecessarily reducing the management

options of the Forest Service or damaging National Forest System lands or resources.

-Forest Service Manual 2730.2

The EA defines reasonable as "fair, proper, or moderate under the circumstances."¹ The guidance provided by the CEQ as to the definition of reasonable states, "[i]n determining the scope of alternatives to be considered, the emphasis is on what is "reasonable" rather than on whether the proponent or applicant likes or is itself capable of carrying out a particular alternative. Reasonable alternatives include those that are practical or feasible from the technical and economic standpoint and using common sense, rather than simply desirable from the standpoint of the applicant."² The EA cites to the "Memorandum on the Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, question 2a" as the location for the definitions of the terms "technically feasible" and "economically feasible." However, these terms are not defined there. Additionally, the DN/FONSI then goes on to cite the EA as the source of those definitions. Thereby there are seemingly no definitive definitions of the terms within the CEQ definition of "reasonable."

The DN/FONSI claims, "[t]he proposed action is technically and economically feasible and demonstrates common sense." However, this is an unsupported subjective claim lacking a clear standard to be measured by.³ What is clear is that the Forest Service need only provide access from Forest Service land to the private property to the degree of which private land owners have reasonable use and enjoyment of their land.

Moreover, "[i]n addition to ensuring that applicable terms and conditions ... are met, the authorizing officer, prior to issuing any access authorization, must also ensure that: (1) The landowner has demonstrated a lack of any existing rights or routes of access available by deed or under State or common law."⁴

AP Timber has failed to show that there is a lack of existing access available given that an existing road allows access to its property. In determining what degree of access is adequate for reasonable use and enjoyment the Forest Service must present a reasoned objective rationale. In the DN/FONSI it is stated, "in my opinion, this road does not provide reasonable access to approximately 11 acres or about 66 percent of the AP Timber ownership thus, AP Timber is unable to manage their land with the existing access."⁵ However, in the EA it is also stated, "[a]ny option using the existing road system … would not provide access to about 75 acres of AP Timber's land."⁶ Taking the assessment in the EA to be more reliable than a personal opinion, existing roaded access to 565 acres out of 640 acres is adequate to ensure reasonable use and enjoyment of the private inholding. Allowing or creating additional roaded access exceeds the duties of the Forest Service under 36 C.F.R. § 251.110. The C.F.R. specifically states that AP

¹ EA p.13

² Memorandum on the Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations, question 2a.

³ DN/FONSI p.1

⁴ 36 C.F.R. § 251.114(f)(1)

⁵ DN/FONSI p.1

⁶ EA p.14

Timber must demonstrate a lack of any existing route available. Thereby, since there is an existing route, AP Timber is not entitled to additional road construction across public lands.⁷

We reiterate that the Forest Service need only provide reasonable access, not roaded access to every inch of the inholding. AP Timber has already been provided reasonable access to its property vis a vis the road that provides commercial timber access to all but 75 acres of AP Timber's land. Moreover, of the 640 acres that AP Timber owns in this section, these 75 acres represent 11% of AP Timber's property. Roaded access to 89% of its property through the current road qualifies as reasonable access. The proposed new road construction is an unnecessary degradation of Klamath National Forest lands and therefore against the public interest.

Neither AP Timber or the Klamath National Forest disclose or discuss alternative means of commercial timber access to the 11% of the inholding that is at issue. For instance, nothing prevents consideration of helicopter yarding as an alternative to additional logging road construction.

Proposed Resolution to Objection Point #1: Please acknowledge that the Klamath National Forest has fulfilled their duties in providing adequate reasonable access to AP Timber's property and no further action is required of the agency.

Objection Point #2: Public Lands Will Suffer Ecological Degradation as a Result of the Road Construction

Undesirable consequences of more roads in forest systems include:

[A] dverse effects on hydrology and geomorphic features (such as debris slides, sedimentation), habitat fragmentation, predation, road kill, invasion by exotic species, dispersal of pathogens, degraded water quality and chemical contamination, degraded aquatic habitat, ... destructive human actions, ... loss of soil productivity, and decline in biodiversity.

- Hermann Gucinski et al., Forest Roads: A Synthesis of Scientific Information, USDA Forest Service, June 2000

The proposed action would require the opening and reconstructing of a road that already exists and extending it 250 feet on a broad ridge. This would affect about 3 acres of NFS lands and an additional 0.2 acres for the 250-foot extension. These proposed actions occur within 2.3 miles of the downstream intersection of Cottonwood Creek and an unnamed tributary where watershed effects from private land operations will occur. Moreover, AP Timber will engage in 211 acres of clear cutting 100 feet out from Cottonwood Creek. The road bed that needs reconstructing has not had maintenance for over 30 years. This fact lends itself to the fact that the Forest Service does not need to create new roads as it actively chooses not to maintain the current roads.

⁷ See footnote 4 supra

According to the DN/FONSI, "[a]lthough the roadbed has had no maintenance for over 30 years, there is no sign of excessive erosion or mass wasting from the road, indicating it is stable and unlikely to contribute to sediment from mass wasting or road failure in the future.³⁸ The Forest Service should leave this road unmaintained and let the watershed restore itself. The Forest Service cannot say that once this road has been reconstructed maintenance will continue after the period of 10 years in which AP Timber plans to use it. This is evidenced by the historical nonmaintenance of this exact road in question, with its 30 years of non-use and lack of maintenance after its previous construction for the purpose of timber harvesting. This newly constructed road will undoubtedly just become unmaintained again given the agency's extreme road maintenance backlog.

The EA states that effects of the proposed action will "occur in the Mill Creek 7th field subwatershed which is 80% NFS lands. All effects of the connected actions on AP Timber lands will occur in the Headwaters Cottonwood Creek 7th field subwatershed which is 78% NFS lands."⁹ Public lands within the KNF should not be damaged by the proposed action. At the expense of an undisclosed amount of tree removal, KNF public lands will suffer degradation while AP Timber enjoys additional access to an inholding they currently can harvest timber on.

The DN/FONSI states that a benefit of reconstructing the existing road is that it "provides a private landowner with reasonable access to their property by the least impacting feasible method."¹⁰ This is inaccurate as AP Timber already has reasonable access. The DN/FONSI further states, "[a]ny adverse effects of reconstructing the exiting road are minor and discountable" while citing to the EA pages 19-48. However, within these pages it is stated that some of these "minor and discountable" effects include:

[A] n increase in peak flows which can lead to modifications of the channel bed, banks, and to a floodplain where it exists. Both logging and road construction can alter peak flows. Regeneration harvest (clear cuts) removes most or all of the forest canopy until the new stand of trees fills in to provide a continuous canopy. This can take 20 years or more to occur. Partial cuts may affect canopy closure but to a lesser degree than regeneration harvests. Removing canopy allows more precipitation to reach the ground. Alteration of the canopy can also affect the intensity and magnitude of runoff from rain-on-snow events in the transient snow zone (Cohen et al. 2015, Heeswijk et al. 1996, McCabe et al. 2007). New road construction can also alter channel morphology by intercepting streams and effectively extending the extent of the stream network (Wemple et al. 2000). This results in more water being routed to stream channels more quickly during peak flow events.

-EA p. 23

⁸ DN/FONSI p. 4 ⁹ EA p. 23

¹⁰ DN/FONSI p. 5

Moreover, severe cumulative effects are occurring from the existing un-maintained network of the public and private logging roads in addition to the extensive logging, yarding and landing construction that has occurred in the watershed.

Further, as stated in the KNF Motorized Travel Management ROD, "[i]n making any limited changes to the NFTS [(National Forest Travel System)], the KNF will be considering ... impacts to natural and cultural resources, ... access to public and private lands, ... minimizing damage to soil, watershed, vegetation and other forest resources, ... and minimizing harassment of wildlife and significant disruption of wildlife habitat."¹¹

We requested that the final decision document disclose that log haul hydrologically connected road/stream crossings may increase sediment production impacting aquatic resources. The EA and DN/FONSI fail to address this issue.

We requested that the EA disclose that the dust generated from dry season haul can be significant for natural surface road and stream crossings. Again, the EA and DN/FONSI fail to address this issue. The EA merely states, "[1]ogging operations and hauling would occur concurrently, but the lack of hydrologic connectivity of the road and implementation of best management practices such as wet weather hauling restrictions and the minimal impacts of AP Timber's management, make it extremely unlikely there would be any discernible cumulative watershed effects at any scale."¹²

The EA and DN/FONSI fail to accurately estimate the number of log haul trips that would generate sediment, especially with wet season haul. Additionally, the EA and DN/FONSI fail to accurately estimate what "light truck access for reforestation and other management activity" amounts to.

Proposed Resolution to Objection Point #2: Disclose the connected and cumulative impacts associated with the Forest Service transportation system and the logging that it will facilitate.

Objection Point #3: Northern Spotted Owls

A Biological Assessment for terrestrial wildlife species determined that the project area is not habitat, and that the project would have no effect on northern spotted owls or critical habitat.

-DN/FONSI p.7 (citing the EA pg. 41)

The EA states, "[a]pproximately 2.3 acres of potential northern spotted owl (NSO) foraging and dispersal habitat occurs in the project area based on the Forest Service EVEG habitat model. The 2.3-acre area includes 1.6 acres of vegetation removal and 0.7 acres of other minor activities occurring within potential NSO foraging and dispersal habitat."¹³ Moreover, the EA states "the

¹¹ Patricia Grantham, Klamath National Forest Motorized Travel Management Record of Decision, USDA Forest Service, July 2010 ¹² EA p. 28

¹³ EA p. 35

proposed action would occur in 4.9 acres of designated critical habitat categorized by the Forest NSO EVEG model as potential dispersal habitat, foraging habitat, and non-habitat."¹⁴

In regard to habitat in the action area, 33 acres are nesting/roosting habitat, 192.1 acres are foraging habitat, and 46.4 acres are dispersal habitat.¹⁵ Additionally, the "action area intersects with three NSO activity centers (KL1185, KL0187, and KL1297). While the action area occurs in the home range of all three activity centers, the project area only occurs in the home ranges of KL1297 and the disturbance range of KL0187."¹⁶

Further, the EA states, "[t]he project's action area occurs in the home ranges of three NSO activity centers and in the disturbance buffer and core buffer of one of the NSO activity centers."¹⁷ Additionally, **"the project area or action area has not been surveyed to protocol."**¹⁸ Not to mention, "[c]ritical habitat occurs throughout the entire project area and the majority of the action area (Figure 3) (USFWS 2012)."¹⁹

While the EA states that the project would have a "negligible effect" on NSO habitat, a negligible effect is different than "no effect" as stated in the DN/FONSI. Moreover, "[t]he proposed action would remove approximately 3.2 acres of vegetation to rehabilitate a road, which would essentially make the area unusable for potential NSO prey."²⁰

The DN/FONSI also states in relation to the NSO, "[c]onnected actions on private lands would be subject to consultation with regulatory agencies when those projects are ripe for consideration. That consultation is not a part of this EA."²¹ Because the Forest Service is providing additional access to this property for the purposes of the connected actions on the private land, ESA consultation should be a part of the EA. The Forest Service is concerning itself with the business practices in regard to timber harvesting on this while ignoring endangered species that have may be harmed by these business activities that the FS hopes to facilitate.

Proposed Resolution to Objection Point #3: Avoid the removal of trees and snags >30" DBH in the project area so as to maintain potential NSO habitat. Remedy the conflicting statements contained within the DN/FONSI, EA, and Wildlife Biological Assessment prior to issuing a decision.

¹⁹ Id.

¹⁴ EA p. 36

¹⁵ Wildlife Biological Assessment, p. 8.

¹⁶ EA. p. 9

¹⁷ EA p. 36

¹⁸ Id.

²⁰ EA p. 35

²¹ DN/FONSI p. 7

Conclusion

The issues and concerns contained in the Objection Items listed above were previously identified to the Forest Service by our organization in our scoping and EA comments during this planning process and hence we have "standing" to raise these concerns in an Objection.

We again ask the agency to please consider the above suggestions for reasonable modifications to the Draft Decision Notice so as to better achieve the management objectives of the KNF Motorized Travel Management ROD and recovery actions of the NSO.

This portion of the KNF is already heavily roaded and proposals for new roads, the refurbishment of unmaintained roads, and the expansion of old roads should take into account the already existing road network and the ongoing inability of the agency to maintain it transportation system.

Thank you for considering the comments, concerns, and suggestions detailed in this objection.

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