White River National Forest

Attn: Shelby Limberis

P. O. Box 190

Minturn, CO 81645

Via web submission portal at:

<https://cara.ecosystem-management.org/Public//CommentInput?Project=55257>

RE: White River Forest Health and Fuels Project Management Project

January 31, 2019

Dear Shelby,

The following are the comments of Wilderness Workshop, Rocky Smith, the Center for Biological Diversity, and The Wilderness Society on the proposed White River Forest Health and Fuels Project, as described in the Scoping Document (SD) available on the project’s web page. We are not opposed to some of the proposed treatments, but the proposed non-analysis of impacts is, to put it mildly, procedurally defective and makes it impossible for the public to understand where, when and how logging – and resulting environmental impacts – will occur.

We appreciate efforts that the USFS has made in the past to reach out to us about timber and vegetation treatment projects on local public lands. We would very much like to continue that active dialogue so we can discuss projects like this—which are cause for great concern from a procedural perspective, before they get to this stage.

In this case, we are perplexed at the Forest Service’s attempt here to approve via a categorical exclusion what amounts to a “black box” proposal. The Forest Service appears to know the location of thousands of acres of potential treatments, but has declined to disclose even that basic information to the public. The Forest Service could address concerns about the project’s impact, and potentially increase public support for its actions, by providing information about the location of the proposed treatments, and by preparing an EA or EIS with an opportunity for the public to respond to the appropriateness of treatment in certain areas, and the possible impacts from such treatment. We strongly urge the Forest Service to do so.

We understand that the USFS intends this “unique” project to allow for timely and flexible vegetation management. *See* USFS “Dear Interested Parties” letter (Dec. 18, 2018) at 1. However, the dearth of information provided in the Scoping Document combined with forest-wide scope and the indefinite duration of this project render the proposal inappropriate under applicable law and regulation. Alternative approaches could provide timely and flexible treatment options, like approving smaller projects with CEs on an annual basis. As it is, however, this project includes no meaningful sideboards, fails to provide any information to the public about the location or nature of potential impacts, and fails to provide any guarantee that future comment will be considered or responded to in any meaningful way public once the decision is made. We also have concerns about the proposed treatment in roadless areas, and the creation or maintenance of fuelbreaks.

Further, the Forest Service should extend the scoping comment period deadline in light of the comment period overlapping with holidays and the 35-day government shutdown, which occurred for nearly the entirety of the public comment period. The undersigned request that this scoping comment period be extended for the same amount of days that the government was shutdown (35 days) to ensure sufficient public comment and access to documents related to the proposed action. This is especially important given that the link to the scoping notice document on the Forest Service’s project page was broken on January 25, 2019 and had been broken for an unknown number of days during the comment period.

I. USE OF A CATEGORICAL EXCLUSION FOR THE PROJECT IS INAPPROPRIATE

According to the SD (p. 1), the proposed project would be documented with a categorical exclusion (CE). Specifically, the CE described as follows would be used:

Timber stand and/or wildlife habitat improvement activities that do not include the use of herbicides or do not require more than 1 mile of low standard road construction.

36 C.F.R. § 220.6(e)(6).

The project is especially problematic because it is not a one-time, discrete application:

…the Forest Service is proposing to implement a maximum of 1,000 acres of vegetation management activities on National Forest System Lands annually until significant changes in conditions warrant a new analysis.

SD at 3. In other words, the proposed treatments could be implemented indefinitely into the future, and many thousands, even tens of thousands, of acres of forest could be logged. It is also not clear what a “new analysis” would entail, nor how it would be done, nor how “significant changes in conditions” would be identified, as no analysis of impacts is proposed for the project before its approval. It is also not clear how the Forest Service will keep track of and disclose the miles of road constructed for the project over the years, to ensure that no more than one mile of new road construction total is implemented over the life of the project. *See* Section IV infra.

Treatments could occur anywhere, even in Colorado Roadless Areas, except for areas assigned to Management Area category 1. Id. at 6 (“At this time the Forest Service has preliminarily identified approximately 600 acres of potential treatments within designated roadless areas across the Forest”).

Specific treatment areas are not identified in the proposed action. Id. at 6. However, the Forest Service could easily identify the areas to be treated. Indeed, the SD identifies the types of areas where treatment is desired: overstocked young lodgepole pine stands and areas where subalpine fir is competing with planted Englemann spruce. *See* SD at 3-5. These areas have been identified, thus they could also be prioritized for treatment. The areas where removing subalpine fir trees competing with planted spruce in previously cut areas have been identified and located, as a total of 585 acres on the Aspen-Sopris Ranger District is stated in the SD (id. at 5), although the Forest Service fails to provide those locations (or a map of any kind) for public review.

As for possible treatment in roadless areas, the White River NF states that “[a]t this time Forest Service has preliminarily identified approximately 600 acres of potential treatments within designated roadless areas across the Forest,” consisting of areas previously clearcut. SD at 6.

In other words, the Forest Service knows where it believes at least some treatments are desirable, but it is apparently choosing not to disclose this information to the public. This makes it impossible for the public and ultimate decisionmaker to understand the nature of the impacts before the project is approved. The Forest Service must: present these locations on maps to the public, request public comment, and analyze a reasonable range of alternatives as well as the possible impacts from implementing the proposed treatments. Public comment and agency analysis would also allow identification of mitigation measures to reduce impacts. However, none of this can be accomplished with the scant information provided, or with a categorical exclusion.

There could be various impacts from implementation of the proposed project, as is discussed in the remainder of these comments. Given the open-ended application of treatment that the proposal would allow, there could be cumulative impacts from logging many thousands of acres over time as well. *See* 40 C.F.R. § 1508.7 (CEQ regulations stating that “Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” (Emphasis added)); *see also* id. § 1508.25(a)(2). Here, the scoping document does not acknowledge the potential for such impacts, nor does it even mention the word “cumulative.” Further, because the Forest Service fails to provide any information about the location of treatments, it is impossible for the public and ultimate decisionmaker to recognize or comprehend the potential for impacts from other private and public proposals that would interact with this project. This makes any determination that a CE is warranted arbitrary and capricious.

Ultimately, the proposal is a landscape level program of work, not a single project. Therefore, a programmatic-style EA or EIS should be prepared. The programmatic document should also identify the locations where treatment would be implemented for at least the first few years, and disclose the potential impacts from treating these areas, as well as methods to reduce such impacts as the National Environmental Policy Act (NEPA) requires.

The Forest Service’s proposal to establish a “checklist” after the project is approved does not compensate for the SD’s failure to disclose necessary information to the public up front. Part of the implementation process includes the following: “A pre-implementation checklist will be completed, documenting the resource review and compliance with design features.” SD at 6. However, the public will, apparently, not even be given an opportunity to comment on a proposed checklist or design features.[[1]](#footnote-1) And while the Forest Service states that “[f]eedback from the public concerning the specific treatment areas, or input concerning future treatment areas would be welcome,” (SD at 6), that feedback would be “welcomed” long after this project has been approved, and the agency will have no duty to respond to the comments or explain why it is choosing not to act on them. This violates the spirit and letter of NEPA and its implementing regulations.

In short, the proposed use of a CE to document the proposed project appears to be an attempt to evade NEPA documentation. That is simply not acceptable. An environmental assessment or impact statement must be prepared for the project as proposed.

II. USFS’S PLAN TO AUTHORIZE THIS LONGTERM PROJECT WITH A CE VIOLATES NEPA’S PUBLIC PARTICIPATION REQUIREMENTS

NEPA regulations mandate that agencies “shall to the fullest extent possible . . . [e]ncourage and facilitate public involvement in the decisions which affect the quality of the human environment.” 40 C.F.R. § 1500.2(d). “NEPA procedures must insure that environmental information is available to public officials and citizens *before decisions are made and before actions are taken* . . . . Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” Id. § 1500.1(b) (emphasis added); *see also* id. § 1501.4(b) (Agencies must “involve . . . the public, to the extent practicable”); id. § 1506.6 (“Agencies shall: . . . (a) Make diligent efforts to involve the public in preparing and implementing their NEPA procedures”).[[2]](#footnote-2) They also provide that “NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.” 40 C.F.R. § 1500.1(b).

Here, the USFS intends to authorize thousands of acres of vegetation treatments, using a variety of different techniques, over an indefinite period of time. The project would apply forest-wide in areas with important and sensitive natural resources, including inventoried roadless areas and sensitive wildlife habitat. Despite the obvious potential for impacts that could be significant to sensitive public land resources, the USFS is poised to approve this project with only this one formal comment period and no NEPA document with analysis of impacts and alternatives. The SD (p. 6) suggests that there may be additional outreach with the public as the project proceeds, but those opportunities do not appear to be required by law or regulation and the agency has made no commitment to consider and respond to public comment later on. In fact, the agency is trying to exempt its future activities under this proposed project’s umbrella from the requirements of NEPA moving forward.

Further, as discussed in more detail throughout this letter, the SD for this project is very short on detail about where the proposed treatments may occur. Basically, the agency is asking the public for feedback on a project that would greenlight thousands of acres of vegetation treatment across the forest without any detail about specific areas that would be affected or potential resource impacts. To the extent that the USFS provides any hint about where treatments may occur, like suggesting some treatments may occur in roadless areas, the SD fails to provide any meaningful information to inform public comment (e.g., maps). This subverts one of the key purposes of NEPA’s public involvement and disclosure mandates: ensuring “that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast.” *Robertson v. Methow Valley Citizens Council,* 490 U.S. 332, 348-49 (1989).

The Forest Service fails to comply with public participation requirements under NEPA when it makes so little effort to inform and engage the public. The agency also ignores its obligations when it provides no accurate, reliable, or meaningful information on environmental impacts before making a decision like this one that will impact thousands of acres of public lands for an indefinite number of years, with no additional formal NEPA analysis.

III. USFS MUST ANALYZE A RANGE OF REASONABLE ALTERNATIVES

As discussed throughout these comments, it is imperative that the Forest Service analyze the proposed activities via an EA or EIS. A properly drafted EA or EIS requires the agency to discuss appropriate alternatives to the proposed project. Davis v. Mineta, 302 F.3d 1104, 1120 (10th Cir. 2002) citing 42 U.S.C. § 4332(2)(E); 40 C.F.R. § 1508.9(b). Even where impacts are “insignificant,” BLM must still consider alternatives. Bob Marshall Alliance v. Hodel, 852 F.2d 1223, 1229 (9th Cir. 1988) (agency’s duty to consider alternatives “is both independent of, and broader than,” its duty to complete an environmental analysis); Greater Yellowstone Coalition v. Flowers, 359 F.3d 1257, 1277 (10th Cir. 2004) (duty to consider alternatives “is operative even if the agency finds no significant environmental impact”). The agency’s treatment of alternatives must also be measured against the standards in 42 U.S.C. § 4332(2)(E) and 40 C.F.R. § 1508.9(b) (requiring the agency to study, develop and discuss appropriate alternatives and to briefly describe those alternatives); Davis, 302 F.3d at 1120. Consideration of reasonable alternatives is necessary to ensure that the agency has before it and takes into account all possible approaches to, and potential environmental impacts of, a particular project. Importantly, NEPA’s alternatives requirement ensures that the “most intelligent, optimally beneficial decision will ultimately be made.” CalvertCliffs’ Coordinating Comm., Inc. v. U.S. Atomic Energy Comm’n, 449 F.2d 1109, 1114 (D.C. Cir. 1971).

As the D.C. Circuit has recognized, “[c]learly, it is pointless to ‘consider’ environmental costs without also seriously considering action to avoid them.” Id. at 1128. “[T]he heart” of an environmental analysis under NEPA is the analysis of alternatives to the proposed project, and agencies must evaluate all reasonable alternatives to a proposed action. *Colo. Envt’l Coalition*, 185 F.3d at 1174 quoting 40 C.F.R. § 1502.14. An agency must gather “information sufficient to permit a reasoned choice of alternatives as far as environmental aspects are concerned.” *Greater Yellowstone*, 359 F.3d at 1277 citing *Colo. Envt’l Coalition*, 185 F.3d at 1174); *see also Holy Cross Wilderness Fund v. Madigan*, 960 F.2d 1515, 1528 (10th Cir. 1992). Thus, agencies must “ensure that the statement contains sufficient discussion of the relevant issues and opposing viewpoints to enable the decisionmaker to take a ‘hard look’ at environmental factors, and to make a reasoned decision.” *Izaak Walton League of America v. Marsh,* 655 F.2d 346, 371 (D.C. Cir.1981) citing *Kleppe v. Sierra Club,* 427 U.S. 390, 410 n. 21 (1976). Informed and meaningful consideration of alternatives is critical to the NEPA statutory scheme, ensuring that agency decisionmakers assess a project’s costs, benefits, and environmental impacts in the correct context. *See Alaska Wilderness Recreation & Tourism Ass’n v. Morrison*, 67 F.3d 723, 729-30 (9th Cir. 1995). This requirement also ensures that decisionmakers “have before them and take into proper account all possible approaches to a particular project (*including total abandonment of the project*) which would alter the environmental impact and the cost-benefit balance.” *Bob Marshall All. v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988) (emphasis in original).

To comply with these NEPA mandates, the Forest Service must “rigorously explore and objectively evaluate all reasonable alternatives” to a proposed action. 40 C.F.R. § 1502.14(a); *accord* 42 U.S.C. § 4332(2)(C)(iii). “Section 102(2)(E) of NEPA requires that agencies ‘study, develop, and describe appropriate alternatives to recommended courses of action in *any* proposal which involves unresolved conflicts concerning alternative uses of available resources.’ 42 U.S.C. § 4332(2)(E) (emphasis added). . . . While a federal agency need not consider all possible alternatives for a given action in preparing an EA, it must consider a range of alternatives that covers the full spectrum of possibilities. 42 U.S.C. § 4332(2)(E).” *Ayers v. Espy*, 873 F. Supp. 455, 473 (D. Colo. 1994).

Here, the Forest Service must rigorously explore and objectively evaluate alternatives including, but not limited to, excluding roadless forests (and potential wilderness areas) from proposed activities, maintaining subalpine fir and other stand diversity over creation of more monoculture stands, and a substantially smaller proposal that is based on the best available science for what measures best protect defensible space for homes and infrastructure. The USFS should also consider applying proposed treatments on an annual basis, after treatment areas have been identified, mapped, and disclosed to the public in a more robust environmental document like an EIS or programmatic EIS, rather than the action alternative, which would grant carte blanche to Forest Service to undertake logging projects indefinitely at undisclosed locations and with no real information on what effects may result.

IV. THE USFS MUST SHOW THAT NO EXTRAORDINARY CIRCUMSTANCES APPLY

Proposed actions may be categorically excluded from further analysis and documentation in an EIS or EA only if there are no extraordinary circumstances. 36 C.F.R. § 220.6(a), (e); *see also* SD at 8. To determine whether or not extraordinary circumstances apply and warrant further analysis, the USFS must consider:

(i) Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;

(ii) Flood plains, wetlands, or municipal watersheds;

(iii) Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas;

(iv) Inventoried roadless area or potential wilderness area;

(v) Research natural areas;

(vi) American Indians and Alaska Native religious or cultural sites; and

(vii) Archaeological sites, or historic properties or areas.

36 C.F.R. § 220.6(b)(1). And, while the “mere presence of one or more of these resource conditions does not preclude use of a categorical exclusion” (id. at § 220.6(b)(2)), this forest-wide project has potential to implicate nearly every one of the listed resource conditions other than wilderness areas. The USFS has an obligation to document its determination that no extraordinary circumstances exist. Id., at § 220.6(e). Frankly, though, based on the dearth of information provided in the SD and the breadth of this proposed project, it is impossible to imagine how the agency could conclude with any certainty that the proposed action would not ever have a potentially significant impact, particularly given that the agency fails to identify where logging will occur over the coming decades under this proposal. If there is any chance this project may have significant impacts, use of the proposed CE is improper.[[3]](#footnote-3)

V. THE PROPOSED CE CANNOT BE USED IF THIS PROJECT MAY INVOLVE MORE THAN 1 MILE OF LOW STANDARD ROAD CONSTRUCTION

The USFS proposes to use the categorical exclusion at 36 C.F.R. § 220.6(e)(6) (“Timber stand and/or wildlife habitat improvement activities that do not include the use of herbicides or do not require more than 1 mile of low standard road construction”) to authorize this project. Here, the SD does not make clear whether the USFS intends to measure new road mileage by treatment or over the lifetime of the project: “Mechanical treatments would occur in areas that are adjacent to existing system road templates or in areas that do not require more than 1 mile of low standard road construction for the entire project area.” SD at 6. To utilize the proposed CE, the USFS must clearly show that this project will not result in more than 1 mile of low standard road construction *in total over the life of the project*, and must also demonstrate how it will ensure, over years or decades of implementation, that the agency will track road miles constructed to ensure this requirement would be complied with.

VI. PROTECT ROADLESS AREAS

The project proposes to treat “approximately 600 acres” that “have been previously treated using clearcut silviculture prescriptions” SD at 6. To comply with the Colorado Roadless Rule (CRR), treatment areas would have to be in the community protection zone, have been identified in a community wildfire protection plan, or be needed to reduce a serious fire risk to a municipal water supply. *See* 36 C.F.R. §§ 294.42(c)(1) and (2). Or cutting could be done to “maintain or restore the characteristics of ecosystem composition, structure and processes.” *Id*. at (c)(3). There is no indication from the SD whether proposed treatment in roadless areas would meet any of these qualifications.

Any proposed treatment in roadless areas must maintain and protect roadless area characteristics[[4]](#footnote-4), as listed in the CRR:

(1) High quality or undisturbed soil, water, and air;

(2) Sources of public drinking water;

(3) Diversity of plant and animal communities;

(4) Habitat for threatened, endangered, proposed, candidate, and sensitive species, and for those species dependent on large, undisturbed areas of land;

(5) Primitive, semi-primitive nonmotorized and semi-primitive motorized classes of dispersed recreation;

(6) Reference landscapes;

(7) Natural-appearing landscapes with high scenic quality;

(8) Traditional cultural properties and sacred sites; and

(9) Other locally identified unique characteristics.

36 C.F.R. § 294.41. The type of treatment intended for roadless areas is not specified, but presumably, if the treated areas were previously clearcut, the treatment would be thinning. But it is not clear that such areas should be treated because lodgepole pine stands are often dense. Had the regenerating stands appeared after a fire, they might be just as dense as they are now, following clearcutting.

Also, there would be no point in thinning lodgepole pine regeneration in roadless areas to allow the trees to grow larger for future commercial timber sales, because such sales are generally prohibited in roadless areas under the CRR. *See* 43 C.F.R. § 294.42(a) (prohibiting tree cutting except in specified circumstances). If the stands to be treated in roadless areas are in the suitable timber base, they should be removed forthwith, using a plan amendment if necessary.

If these areas were clearcut previously, it is likely that roads were used for access. Any access for treatment in roadless areas must especially be careful not to reconstruct or reopen old roads or delay restoration of vegetation on these roads. If any old roads are used or any motor vehicle use occurs in roadless areas, there must be strong restorative measures applied upon treatment completion, and areas where these measures are applied must be monitored for effectiveness. We recommend access to any proposed treatment locations within roadless areas be by foot or pack animal only to minimize soil disturbance and degradation of natural values.

We also strongly recommend that no slash piles be created within roadless areas. That would certainly detract from the characteristic of “natural-appearing landscapes with high scenic quality.” The same would be true if slash was masticated and chipped, and then left on site. Slash should also not be lopped and scattered, as that would provide an easily-ignitable fuelbed, placing the residual seedlings/saplings at risk.[[5]](#footnote-5)

The NEPA document for the proposed project must discuss why the proposed treatment in roadless areas is desirable and confirm that treatments pose no threat of significant impacts to roadless areas. It must also show how the proposed treatment in roadless areas complies with the CRR and demonstrate how roadless area characteristics and integrity would be protected. Further, any NEPA document must: (1) specifically map the roadless areas; and (2) consider reasonable alternatives that include no road construction as well as no treatments within roadless areas.

In addition, while the proposal would bar treatments from occurring in Forest Plan Management areas 1.11 (Pristine Wilderness), 1.12 (Primitive Wilderness), 1.13 (Semi-Primitive Wilderness), and 1.5 (Wild Rivers-Designated and Eligible) (*see* SD at 3), the Forest Service does not mention whether such treatments could occur in other sensitive areas where timber management is either disfavored or barred under the Plan, including: Plan Management Areas 2.1 (Special Interest Areas – Minimal Use and Interpretation); 2.2 (Research Natural Areas); and 3.1 (Special Interest Areas – Emphasis on Use and Interpretation).[[6]](#footnote-6) Any subsequently prepared NEPA document must consider an alternative that eliminates these management areas from the proposal. And if any proposed treatment areas are in these MAs, the potential impacts on the values for which the RNAs and/or special areas were designated must be disclosed.

VII. PROTECT WILDLIFE HABITAT

Trees, even small diameter ones, provide cover and habitat for various animals, from large ones like deer and elk, to small ones likes shrews, voles, snowshoe hares, and cavity nesting birds.

Young conifers, as well as older ones with low branches, provide winter food for snowshoe hares. Hares are an important species because they are the favorite prey of lynx, a species listed as threatened under the Endangered Species Act (ESA). Thinning could remove or degrade hare habitat if too many trees are removed, and thereby degrade lynx habitat. Small patches of dense young conifers may be important for lynx:

In the western United States, hare population densities that reach [] levels [desired by lynx] tend to be found in comparatively small and medium-size patches of suitable habitat; expansive areas that support abundant hare populations are relatively uncommon.

Ellsworth and Reynolds, 2006, at 3.

The adverse impact of thinning on hare is acknowledged in the SD:

Stands that are proposed to be treated using [] prescription [2] would not retain un-thinned areas that provide for snowshoe hare habitat.

Id. at 4. Prescription 2 would thin to 150-400 trees per acre in the wildland-urban interface. Other proposed silvicultural prescriptions would thin to as low as 100 trees per acre (*see* id. at 3-5); thus these prescriptions could degrade or eliminate hare habitat as well. Ellsworth and Reynolds, 2006 state that: “Insufficient understory density is a particular problem in forests that are pre-commercially thinned.” Id. at 36.

The NEPA document must examine the possible impacts from proposed treatment on snowshoe hare and other wildlife species. If lynx habitat would be affected, consultation with the Fish and Wildlife Service under the ESA may be required.

The SD states that it will create a “pre-implementation checklist [that] would be completed by Resource Specialists to identify any site specific conditions that may need to be addressed such as cultural sites or important wildlife habitat.” Id. at 3. This does not fulfill the agency’s duties to disclose impacts to wildlife pursuant to NEPA, nor does it ensure compliance with Forest Plan standards and guidelines or the ESA. The Forest Service’s proposed action fails to provide any definition of “important” wildlife habitat, nor does it describe whether or how the agency would avoid, minimize, and/or mitigate impacts to such “important” habitat. Any subsequent NEPA document must: (1) define and identify “important” habitat that may be impacted by logging proposals; (2) identify how the agency would mitigate or minimize impacts to such habitat; and (3) consider an alternative that avoids “important” wildlife habitat altogether.

VIII. PROTECT RIPARIAN AREAS AND WATERSHEDS

Treatments in riparian areas should generally be limited to light hand treatment. Mechanical equipment should not be used. Slash piles, if constructed, should not be burned. In watersheds in the at-risk or diminished stream health classes, any treatment must be designed to restore degraded conditions. *See* Watershed Conservation Practices Handbook (WCPH), FSH 2509.25, section 12.1, design criteria 1a and 1b.

Treatments should not increase connected disturbed area. *See* WPCH section 11.1, design criterion 1.

Any subsequently prepared NEPA document should: (1) map the location of riparian areas in relation to areas identified for treatment; and (2) consider an alternative that bars tree removal within 100 feet of water bodies.

IX. RETAIN SOME SUBALPINE FIR

Proposed silvicultural prescription three would favor Englemann spruce over subalpine fir: “Remove all trees within 15-30 feet of planted spruce trees.” SD at 5. However, it would be better to retain more fir to reduce the chances of one insect or disease causing future mortality of all or a large percentage of the trees in planted stands. In other words, a more species-diverse stand is more resilient to pathogens. If the stands contained both species before the spruce beetle attacks in the 1990s and subsequent salvage treatment, which is likely because natural fir regeneration is occurring (id.), then the future stands should contain a good mix of both species.

Removing all trees within 15-30 feet of planted spruce trees would ensure that the future mature stand is pure spruce. This is not a desirable outcome, for the reasons discussed above.

X. FIGHT NOXIOUS WEEDS AND PROTECT RARE PLANTS

Any kind of ground disturbance creates a good environment for introduction and spread of noxious weeds. Therefore, before any treatment or road construction or reconstruction is implemented, areas expected to see any ground disturbance should be surveyed for noxious weeds. Any populations found should be destroyed.

The 2007 Decision Notice (DN) for the White River National Forest Invasive Plant Specie (*sic*) Management, which includes the following provision:

Areas of recent soil disturbance, whether natural or man-made should be surveyed for the presence of invasive plant specie [*sic*], if found then treated.

DN at 4.

The Forest Plan requires the following:

Include provisions that are necessary to prevent the spread of and to control the

introduction of noxious weeds in contracts and permits for use of National Forest

System lands and resources.

Plan at 2-33.

The surveys used to detect weeds could be used to identify populations of rare plants. Any such populations need to be buffered sufficiently to not only protect the existing plants but also to allow the populations to expand.

Surveys for, and eradications of, noxious weeds should continue for at least three growing seasons after project completion.

XI. SLASH DISPOSAL

The proposed treatments would produce a considerable amount of slash. The SD indicates that slash from hand treatments could be burned, and slash from mechanical treatments could be chipped or masticated and left on-site to a depth of less than three inches. SD at 6.

Burning could sterilize the soil beneath the burn piles by killing all microorganisms and volatilizing nutrients. Burning lopped and scattered slash might favor dense lodgepole regeneration, a condition the proposed project is designed to address. *See* id. at 2.) Leaving chips or chunks (from mastication) on the ground over a large area would prohibit or inhibit tree regeneration and establishment of ground vegetation. It is our understanding that chips and chunks decay very slowly and use much of the available soil nitrogen in the process. Therefore, coverage of chips and chunks must be limited in any area to no more than about 20 percent in any unit.

However, some organic ground cover should be maintained. *See* WCPH section 11.2, design criterion 1, and section 14.2, design criteria 1a and 1b.

The NEPA document must show how slash treatment will protect soils.

XII. WOULD PROPOSED THINNING TRULY MAINTAIN FUEL BREAKS?

One purpose of the project is to “Maintain existing fuel breaks with the Wildland Urban Interface (WUI) through managing live and down fuels.” SD at 2. The SD also says the following:

Overtime [s*ic*] these completed fuel breaks have regenerated and are overly dense with current stocking levels exceeding 2,500 trees per acre. The desired stocking levels are between 150 and 1500 trees per acre.

Id.

Fifteen-hundred trees per-acre means the average spacing between trees is only 5.39 feet. That does not seem like a fuelbreak at all, as crowns would still be touching, or so close that ignition of one tree crown would mean quick ignition of the ones surrounding it, and soon the whole stand would be aflame. One-hundred-fifty trees per-acre calculates to an average spacing of 17.04 feet between trees. That arguably could be fuel break, if the crowns are narrow.

The undersigned generally support some fuel reduction in the WUI, where fuel reduction would help conserve human lives, homes, and infrastructure. But thinning in other areas to create fuelbreaks is likely ineffective and a waste of resources because fewer trees means more drying and more wind to feed fires burning through small diameter fuels that remain after treatment.

In any case, it is not clear if the proposed thinning would create or maintain fuelbreaks. The NEPA document must cite science and clarify what level of trees per acre constitutes a fuelbreak, and how effective such fuelbreaks may be under extreme weather conditions, which is when most wildfires ignite and spread.

XIII. HOW THE PROJECT WOULD BE FUNDED

The proposed project appears to be aimed at cutting small-dimeter trees. Such trees have limited commercial value, as they cannot be made into dimension lumber. Some could perhaps be used for biomass, but larger diameter material is more desirable for this use also because more heat is produced per piece of wood. This means that at least some of the project might have to be implemented via service contracts or the like, for which federal funding is uncertain.

Further, the SD states that “[p]ost treatment surveys that monitor compliance with the silvicultural prescription will be conducted.” SD at 7. The Forest Service should clarify how these surveys will be funded over the coming decades. Would Knutson-Vandenburg funds be used? If not, what other funds could be available?

It is also unclear why post-treatment surveys are limited to monitoring compliance with silvicultural prescriptions, as there could be impacts to other resources, such as watershed, soils, and wildlife.

The NEPA document for the project should discuss the possible product use of material removed from the project area, and the prospects for the proposed project being funded.

CONCLUSION

The proposed project would be an ongoing treatment over several years (or decades) of up to 1,000 acres each year. This does not qualify for any categorical exclusion, and an EA or EIS must be prepared. The NEPA document should show the location of likely treatment areas, especially in important locations like roadless areas, possible lynx habitat, etc. It must disclose the potential impacts on watersheds, soils, wildlife, etc., and state how impacts would be mitigated.

The need for treatment in roadless areas must be discussed in the NEPA document. Any treatment within roadless areas must protect and maintain roadless area characteristics. Habitat for snowshoe hare should be maintained as much as possible. The NEPA document must show how treated stands will maintain or create fuelbreaks, where that is the intent of treatment.

In the event that the USFS proceeds with the project as proposed, the undersigned request to be included in the master list of interested parties. We wish to be included in any correspondence or communications related to this proposed project and the implementation of any treatments or other related activities authorized as part of this project. We also would like to be notified of any monitoring results.

Sincerely,

Rocky Smith, Forest Management Analyst

1030 Pearl St. #9

Denver, CO 80203

303 839-5900

[2rockwsmith@gmail.com](mailto:2rockwsmith@gmail.com)

Peter Hart, Staff Attorney

Wilderness Workshop  
PO Box 1442  
Carbondale, CO 81623  
[peter@wildernessworkshop.org](http://www.wildernessworkshop.org/)  
970.963.3977 (office)

Allison N. Melton, Staff Attorney

Center for Biological Diversity

PO Box 3024

Crested Butte, CO 81224

[amelton@biologicaldiversity.org](mailto:amelton@biologicaldiversity.org)

970.309.2008

Jim Ramey, Colorado State Director

The Wilderness Society

ph 303-957-9183

1660 Wynkoop St, Suite 850

Denver, CO 80202

[jim\_ramey@tws.org](mailto:jim_ramey@tws.org)

Cc: Scott Fitzwilliams, Forest Supervisor

REFERENCE

Ellsworth, E. and T.D. Reynolds, 2006. Snowshoe Hare (Lepus americanus): A Technical Conservation Assessment. USDA Forest Service, Rocky Mountain Region. Available: <http://www.fs.fed.us/r2/projects/scp/assessments/snowshoehare.pdf>

1. No documents containing proposed design features or a draft checklist are on the project website as of this writing. [↑](#footnote-ref-1)
2. *See* *Citizens for Better Forestry v. U.S. Dep’t of Agric*., 341 F.3d 961, 970 (9th Cir. 2003) (quoting NEPA regulations). [↑](#footnote-ref-2)
3. “If the responsible official determines, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an EA. If the responsible official determines, based on scoping, that the proposed action may have a significant environmental effect, prepare an EIS.” 36 C.F.R. § 220.6(c).  [↑](#footnote-ref-3)
4. All cutting must ensure that “one or more of the roadless area characteristics will be maintained or improved over the long term.” 36 C.F.R. § 294.42(c). [↑](#footnote-ref-4)
5. Slash piling, lopping-scattering, and masticating-chipping are all proposed for the project area in general. *See* SD at 5. *See also* further discussion of slash disposal in section VI below. [↑](#footnote-ref-5)
6. Under the Forest Plan, these management areas are assigned to 24,300 acres, 5,800 acres, and 37,400 acres, respectively. Forest Plan FEIS at 2-54. [↑](#footnote-ref-6)