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Submitted online at https://cara.ecosystem-management.org/Public//CommentInput?Project=44665

Barry K. Garten,
Area Ranger, Mount Rogers National Recreation Area
George Washington and Jefferson National Forests,
3741 Highway 16
Marion, Virginia 24354

Re: Ewing Mountain Vegetation Project

Dear Mr. Garten,

Thank you for the opportunity to comment on the May 16, 2019 scoping notice for the proposed Ewing Mountain Vegetation Project. We offer the following brief comments on behalf of the Southern Environmental Law Center and Virginia Wilderness Committee.

The scoping notice is inadequate.

We are extremely limited in our ability to provide meaningful comments on whatever actions the Forest Service may be considering. The scoping letter lists very general proposed actions like "diversify stand structures to benefit wildlife" and "create open woodland areas." What are you actually planning to do and where? If the Forest Service created this map on February 23, 2018, as indicated on the map, we would expect to see more development of the proposal in the past 1.5 years.

The vicinity map attached to the scoping letter does not help. The map legend does not explain what the yellow or light green areas on the map indicate. Proposed timber units? Different types of silvicultural prescriptions? Burn units? The black border that apparently surrounds proposed burn units is not apparent.

The public needs site-specific information to provide meaningful scoping comments. Otherwise, we are left trying to provide comprehensive answers to the vague question "what do you think the issues might be if we do something somewhere in the area?" Nor can we suggest alternatives such as "please develop an alternative that avoids ground-based logging in this area because it contains Species Y, which is a rare, sensitive species that would likely be adversely impacted by those actions." Without more specific information, all we can do is highlight some issues that frequently come up for proposed projects on the George Washington and Jefferson National Forests (GWJNF). We do that here but will also provide additional comments once the necessary information is provided.

To allow for legitimate public participation in the decision-making process, as required by Forest Service and Council on Environmental Quality (CEQ) regulations, the Forest Service should issue an adequate scoping letter that provides the necessary information (which is typically provided in notices across the George Washington and Jefferson National Forests).[1] The revised scoping letter should include site-specific information, including but not limited to:

- Stands proposed for harvest;
- Proposed harvest method in each unit, as well management objectives;
- Information regarding each proposed unit, such as compartment number, stand number, management prescription, acres, site index, age, and forest type;
- Location, acreage, and objectives for prescribed burns;
- Any TESLR species in the area, or other sensitive resources such as impaired or priority watersheds;
- Any Inventoried Roadless Areas in the area;
- Maps of the project area with complete legends and proposed transportation plans to access units.

Without this information, it is not possible to "identify[ ] the significant issues related to the proposed action."[2] Again, we will provide additional comments when that information is available.

General comments

The below highlights issues that commonly arise with management projects on the GWJNF. We urge the Forest Service to address these concerns in a subsequent scoping letter, as well as a subsequent draft Environmental Assessment.

- **Draft Environmental Assessment.** We strongly encourage the District to make a draft Environmental Assessment available for public comment, prior to issuing a draft Decision Notice. This occurred with the Lower Cowpasture project and we believe it was a significant improvement over our experience with past projects, in which the GWJNF often followed a two-step process: first, providing a scoping notice for public comment, and second, issuing a final EA with the Decision Notice. Taking the additional step of offering a draft EA for public comment and then considering those comments *before* issuing a draft Decision Notice and finalizing decision documents is beneficial for a number of reasons: (1) it is more consistent with a collaborative approach; (2) it gives the Forest Service an opportunity to incorporate additional information into the EA, make any final adjustments to the project, or otherwise respond to and address comments in the final EA and decision; (3) such responsiveness likely would increase public support for the decision and could reduce objections, expediting the project in the end. On the other hand, skipping this step would require those wishing merely to give input on the EA to offer it through the more adversarial objection process, which is no substitute for an opportunity to give input and dialogue. Moreover, we believe that the National Environmental Policy Act and its implementing regulations require that the

[1] *See* 36 C.F.R. § 220.4(e) (adopting 40 C.F.R. § 1501.7 scoping requirements).
[2] 40 C.F.R. § 1501.7.

public have an opportunity to comment on the environmental effects of the proposal and alternatives – information normally made available in a draft EA.

- **Ecological Restoration.** The District should commit to including ecological restoration as a primary goal for this project. The Forest Service defines ecological restoration as

> The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Ecological restoration focuses on reestablishing the composition, structure, pattern, and ecological processes necessary to facilitate terrestrial and aquatic ecosystems sustainability, resilience, and health under current and future conditions.[3]
>
> Proposed Framework for Selecting Ecological Restoration & Management Activities.
>
> As the Forest Service moves forward with developing this project, we suggest the below approach to help identify and/or refine areas for possible ecological restoration and management. We believe that such an approach, which pulls together concepts and recommendations discussed below, could help bridge broad goals with specific sites to implement the Plan and project goals.

1. **Focus on ecological restoration.** Restoration work can meet multiple stakeholder objectives and goals. E.g., restoring diversity of structure and species in a maple-dominated stand could satisfy other vegetation and wildlife objectives also.

2. **Identify ecological restoration needs and consider treatment options to achieve them.** For example, The Nature Conservancy's Ecological Departure Analysis helps identify restoration needs related to desired structural conditions in the forest.

3. **Prioritize areas that are most degraded, where the greatest level of agreement and support is likely.** These include:

    a. Low-diversity stands that would benefit from treatment to restore a diversity of structure and tree species, including oaks and other mast-producers. E.g., early or mid-successional stands that were logged relatively recently, many of which are low-diversity or dominated in maple or poplar;

[3] *See* 36 CFR § 219.19 (new NFMA regulations); Forest Service Manual (FSM) Ch. 2020.5, Ecological Restoration and Resilience, I.D. No. 2020-2011-1 (2011-2013); 81 Fed. Reg. 24785, 247942 (Apr. 27, 2016) (Forest Service's Ecosystem Restoration Policy, incorporating definitions in Forest Service Handbook 1909.12, zero code chapter, section 05); *see also* Dominick DellaSala et al., *A Citizen's Call for Ecological Forest Restoration: Forest Restoration Principles and Criteria*, Ecological Restoration 21:1 (March 2003) (attached); Society for Ecological Restoration International (SER) Science and Policy Working Group, *The SER International Primer on Ecological Restoration* (2004) (attached).

b. Other uncharacteristic forest that departs from expected ecosystem characteristics. E.g., pine plantations and other uncharacteristic pine-dominated stands.

4. **Consider the following factors when selecting sites:**

    a. ***Integrated management:*** Focus on areas that offer opportunities for multiple types of ecological restoration and management in sizeable areas, e.g., areas that could include potential commercial timber harvest, prescribed fire, eradication of existing non-native invasive species (NNIS), and water quality improvement projects. This could offer efficiencies in planning and implementation, and effective ecological restoration and management that would move the forest in a meaningful way towards desired conditions.

    b. ***Existing road access*****:** Focus on areas with existing roads that do not require new road construction. E.g., areas that have been harvested and could benefit from additional activities are good candidates, such as mid-successional stands that were logged relatively recently and are dominated by maple. Do not rely on extensive temporary road construction to access new, less accessible timber harvest units. Incorporate findings from the TAP.

    c. ***Non-native invasive species*****:** Do not propose management that is likely to lead to new infestations, particularly in characteristic, native, relatively healthy forest. Control existing infestations and commit to necessary mitigation measures, including post-harvest assessments and treatment of NNIS. Do not propose management that would exacerbate existing infestations.

    d. ***Steep slopes on highly erodible soils***: Analyze GIS data as a "first filter" to help avoid ground-based logging in areas with steep slopes and high erosion-hazard soil types, which risk erosion and sedimentation of creeks and rivers.

5. **Remote sensing and modeling can help identify the above areas. The agency can then ground-truth as needed.**

6. **Once a sufficient number of sites are identified, the agency should move forward with these areas.**

- **Old Growth.** We urge the Forest Service to commit to preserving all old growth in the project area, including any old growth identified through field surveys prior to project implementation. Old growth communities "are rare or largely absent" in Southeastern forests, perhaps occupying about one half of one percent (0.5%) of the total forest

acreage.[4] For that reason, the agency is making efforts to address the restoration of old growth, which is a "missing portion of the southern forest ecosystems."[5] If the Forest Service does propose logging old growth, this would be a significant impact, necessitating an environmental impact statement for the project.

- **Roads.** Does the Forest Service anticipate construction of any temporary roads to access the proposed project area? If so, the Forest Service needs to disclose and analyze these impacts, including impacts to riparian corridors. And if the Forest Service intends to use existing roads, it needs to examine TAP recommendations prior to identifying roads to be used to access harvest units. This is an important step in the Forest Service's efforts to "right size" the road system and prevents unnecessary investment in roads recommended for downgrading.

- **Steep Slopes and Soils.** The Forest Service should include information on the slopes and soils in proposed logging areas, including soil erosion hazards and soil suitability for logging roads, log landings, and ground-based timber harvest. Including this information early in the process allows the Forest Service to avoid potentially problematic areas without significant additional time and labor in the field.

- **Riparian Corridors.** Are there priority watersheds or impaired waters in the project area? If so, the Forest Service must include this information and consider impacts from the proposed project on these areas.

- **Non-Native Invasive Plants.** We appreciate the Forest Service's intention to reduce current infestations and future spread of non-native invasive plants (NNIP). But simply stating that the proposed action *should* include ways to control NNIP is not enough. The scoping letter should commit to treating NNIP and prevent the spread of NNIP in the project area, as well as provide detail on how the Forest Service intends to achieve this.

- **Management Prescriptions.** What management is proposed in Management Prescription 7B Scenic Corridors? And how will the proposed action impact high quality scenery in this area? The Forest Service must include this information in a revised scoping letter and subsequent draft Environmental Assessment.

- **Prescribed Burn.** The Forest Service should consider structural changes likely to result from the proposed prescribed burn. For example, recent analysis of fire effects monitoring on the GWJNF indicates prescribed burns led to 5% ESH on the North Zone, 7% ESH on the Eastern Divide, and 3% ESH on the South Zone. The Forest Service should consider how to estimate fire effects for this project.

- **Climate Change.** The Forest Service must also consider climate change impacts of the project within its cumulative impacts analysis. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of

[4] USDA-Forest Service, Southern Region, *Guidance for Conserving and Restoring Old-Growth Forest Communities in the Southern Region: Report of the Region 8 Old-Growth Team*, 1 (June 1997).
[5] *Id.*

time."[6] Further, courts have explained that the "impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct."[7]

- **Monitoring and Adaptive Management.** We also encourage the Forest Service to begin thinking about monitoring early in this process. As the Forest Service Manual explains, because ecological restoration is outcome oriented, "adaptive management, monitoring, and evaluation are essential to ecological restoration."[8] Identifying restoration goals, establishing measurable objectives, and monitoring will be essential to determine whether and to what extent quantifiable objectives for the project activities are being met – and so that adjustments can be made if the results or effects are not as expected. The Forest Service should outline goals and quantifiable objectives for project activities and set forth a plan for monitoring their outcomes to assess whether and to what extent they were met. For example, for harvest units, there should be specific objectives for desired forest structure and species composition and those elements should be monitored. Similarly, erosion and sediment control BMPs should have implementation and effectiveness monitoring.

Meaningful public involvement at the scoping stage is critical. The Ewing Mountain Vegetation project scoping letter does not allow for this because it fails to provide the most basic information about the project and therefore prevents actual consideration of potential issues and areas of concern. To provide the public with an adequate opportunity to participate in the planning and environmental review process, the Forest Service should issue a scoping letter that provides necessary information about what management is actually proposed, where, and site-specific details.

[6] 40 C.F.R. § 1508.7 (emphasis added)
[7] *Ctr. for Biological Diversity v. NHTSA*, 538 F.3d 1172, 1217 (9th Cir. 2008).
[8] FSM 2020.6.

Thank you for your consideration, and please let us know if you have questions. We look forward to continuing to participate and providing additional comments as the project moves forward. We hope to have opportunities to discuss the project further with you and your staff during that process.

Sincerely,

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