

Objector's Notice of Objection, Statement of Issues and Laws,
And Requested Remedies

Notice of Objection

July 11th, 2019

Regional Forester

Objection Reviewing Officer

Pacific Northwest Region

USDA Forest Service

Attn: 1570 Appeals and Objections

P.O. Box 3623

Portland, OR 97208-3623

Email: objections-pnw-regional-office@fs.fed.us

Re: Blue Mountains Biodiversity Project's objection to the
Malheur National Forest Rattlesnake Hazardous Fuel
Reduction Project Draft Decision Notice and Forest Plan
Amendment and Environmental Assessment

Dear Objection Reviewing Officer,

Blue Mountains Biodiversity Project (BMBP) hereby formally
submits the following objections to the Malheur National Forest
Rattlesnake Environmental Assessment and Draft Decision
Notice and Forest Plan amendment. BMBP has secured the
right to submit objections and thereby participate in the pre-
decisional administrative review process for this project.
BMBP has submitted timely written scoping comments
regarding this project and includes with this objection our

field survey sheets and sample photographs from our surveying the affected area this Spring.

Decision Document:

Environmental Assessment for the Rattlesnake Hazardous Fuels Reduction Project and Draft Decision Notice and Forest Plan Amendment for the Rattlesnake Hazardous Fuel Reduction Project (Rattlesnake Project)

Date Decision Published: June 12th, 2019

Responsible Official: Craig Trulock, Malheur National Forest Supervisor

Description of the Project:

The Malheur National Forest has selected in its entirety the proposed action alternative from the Rattlesnake Hazardous Fuel Reduction Project Environmental Assessment (EA), now called the Preferred alternative, which includes:

* (logging)

Commercial thin 20 Grand fir up to 30" - 158 acres

" " 30 Grand fir up to 30" - 1,666 acres

" " 40 Grand fir up to 30" - 1,918 acres

LOS Treatment (logging) - 818 acres

Fuel Reduction Biomass thin - 3,494 acres

Aspen Treatments (conifer logging) - 924 acres

Conifer Encroachment Treatment (logging) - 1,815 acres

(logging) Riparian Habitat Conservation Area Treatments - 280 acres

Mahogany Treatment (logging) - 703 acres

Plantation thinning (logging) - 131 acres

Eagle Roost Thinning (logging) - 273 acres

plus Designation of Replacement Old Growth (ROG), landscape scale burning of about 22,500 acres, and Forest Road Activities, including closures, decommissioning, opening, maintenance, and "temporary" road building.

Location: the 32,235 acre area within the Armstrong Canyon, Coffeepot Creek and Rattlesnake Creek subwatersheds within the North Basin watershed and the Cow Creek subwatershed within the Malheur Slough watershed. Major roads in the project area include forest roads 2800, 2820, 2810, 2830, 2850, and 2815 roads.

Appellants' Interests:

Blue Mountains Biodiversity Project has a specific interest in this decision, which has been expressed through participation throughout the NEPA process. BMBP supporters visit much of the affected area for hiking; camping; relaxing; bird and wildlife watching; photography; hunting; and more. The value of the activities engaged in by BMBP volunteers, staff, and supporters would be damaged by the implementation of this project.

BMBP is a non-profit organization that works to protect Eastern Oregon National Forest ecosystems. Staff, volunteers, and supporters of BMBP live in various communities surrounding the Malheur National Forest and use and enjoy the Forest extensively for camping; hiking; drinking water; hunting; fishing; general aesthetic enjoyment; gatherings; viewing flora and fauna; gathering forest

and other purposes.

Request for meeting:

BMBP requests a meeting with the Forest Service to discuss issues in this objection and seek resolution of concerns through negotiation before the Malheur Forest Service makes a final decision on the Rattlesnake project.

Specific issues addressed in this objection:

NEPA (National Environmental Policy Act) violations, including proposing actions inconsistent with the Purpose and Need stated for the project; failure to provide an adequate range of alternatives; failure to adequately analyze direct, indirect, and cumulative impacts of the project and the proposed Forest Plan amendment; failure to disclose scientific controversies; inaccurate use of the science; failure to use the full spectrum of best available science; failure to use an Environmental Impact Statement instead of an Environmental Assessment; and failure to incorporate key documents used in the analysis in the EA.

Violation of the Healthy Forest Restoration Act by planning to log and remove large and often old trees (Grand fir $> 21"$ dbh and $< 30"$ dbh)

Violations of the National Forest Management Act (NFMA) and the Malheur Forest Plan, including: failure to provide for population viability of

Management Indicator Species and other wildlife species, violations of the Malheur Forest Plan, and improper procedure for implementing the proposed Forest Plan amendment, which is not site-specific and would have significant effects.

Potential violations of the Malheur Forest Plan include violations of Forest Plan standards, including the Eastside Screens re: violation of the 21" dbh limit for cutting live trees which are not hazard trees and re: logging within INFISH RHCA buffers; and use of a Forest Plan amendment for effectively violating a Forest Plan standard and potentially violating the Forest Plan standard for detrimental soil impact restrictions.

Violations of the Endangered Species Act include failure to ensure there would be no contribution toward an uplisting trend for Sensitive species, including Redband trout, Sensitive plant species, and Sensitive Columbia Spotted frog.

Clean Water Act violations include failure to demonstrate that proposed Commercial logging within RHCA buffers will not further impair or retard water quality for creeks listed for water quality impairment for stream temperature.

We also address concerns regarding "temporary" road construction, re-opening of closed roads, and potential impacts to undeveloped lands and to

and to climate stability.

BMBP objects to the Rattlesnake project for the following reasons:

I. The Rattlesnake project violates the National Environmental Policy Act

The Rattlesnake project violates the National Environmental Policy Act in the following ways: inconsistency with the stated "purpose and need" for the project; failure to provide an adequate range of alternatives; failure to analyze & adequately the direct, indirect, and cumulative impacts of the project; failure to take the requisite "hard look" at project effects required by NEPA; failure to disclose scientific controversy; inaccurate use of the science; failure to use best available science; failure to use an Environmental Impact Statement (EIS) instead of an Environmental Assessment (EA); and failure to incorporate key documents used in the EA analysis.

Inconsistency with the stated purpose and need for the project:

The Rattlesnake project proposed action (preferred alternative) is not consistent with all the purpose and need goals expressed in the EA. The Rattlesnake project included the following

Statement that constituted the purpose and need for the project in the EA:

"Reduce fuels... to alter fire behavior, ... and move the area towards historical fire behavior (low intensity surface fires) and fire regime (frequency) with historical fire effects on vegetation (from high mortality to low mortality)." (EA p. 1-4)

Examples of our comments during the Scoping period on the inconsistency of proposed actions with the stated Purpose and Need for the Rattlesnake project can be found on our Scoping comment pages 1, 2, 3, 4, 5, 6, and 7, which also contest the stated "Hazardous Fuel Reduction Need" found on p. 1-4 of the EA (which must have been largely stated in the Scoping letter.)

see these pages →

New information since Scoping in the EA and Draft Decision Notice also support our objections. See quotes or copies of our objection point arguments re: the violation of the Healthy Forest Restoration Act (HFRA) re: the Draft Decision Notice and re: the EA support for our objections regarding NEPA, NFMA, ESA, and CWA (Clean Water Act) below, as well as regarding "temporary" road building, undeveloped land logging and roading, and climate change below.

Resolution (re: inconsistency with Purpose and Need)

BMBP has commented on our objection in our scoping comments (pp. 1-7). To be consistent with the purpose and need for the project, as well as representing

* and movement toward

accurately conditions on the ground, we request that the Forest Service:

* Retain higher basal areas of live trees across the board, with the lowest basal area at 40 sq. feet of basal area for very dry forest types and no logging of moister mixed conifer LOS, with only NCTing of dry forest LOS, only if needed.

The full spectrum of best available science should be reflected in project area management plans, with detailed analysis of an alternative that would only do small diameter thinning up to 9-12" dbh depending on the average diameter of young dense trees in the stand.

Failure to provide an adequate range of alternatives:

Scoping
p. 6
example
of our
reasoning
for this
objection:

~~Examples of our comments re: there being an inadequate range of alternatives can be found in Scoping comments on pages 9 & 10. (See the copy of our scoping comments.)~~

Resolution: Our resolution is stated in the attached comments on pages 9 & 10:

Failure to provide an adequate range of alternatives:

Examples of our comments requesting a broader range of action alternatives can be found in our Scoping comments on pages 9 & 10. For instance:

"We request in depth analysis of an action alternative that uses only 'noncommercial' thinning by hand up to 9" dbh and prescribed fire to achieve project objectives, as by far the most density and competition stress on the Emigrant District in particular and the Malheur in general, is from small trees, mostly less than 9" dbh. Small trees up to 9" dbh or less are also the most highly flammable biomass. Small trees up to 9" dbh are the most likely to represent "encroachment" or "excess" density... from wildfire suppression, not mature trees, which have been largely logged out.... The No Action alternative should also be considered a viable alternative, as the forest needs more natural disturbance to be allowed for self-thinning, not less." (Scoping comments, p. 9)

Resolution

See our Scoping comments cited and quoted above as well as further detailed suggestions in our Scoping comments on pp. 9 & 10.

Failure to use an Environmental Impact Statement (EIS) rather than an Environmental Assessment (EA):

The Rattlesnake project should warrant the use of a full EIS with a 45 day comment period due to its tremendous scale and very high intensity of logging. Similar landscape scale projects (timber sales)

on the Malheur National Forests are now using a full EIS for analysis, including the upcoming Austin sale, the Camp Lick sale, the Ragged Ruby sale, and others, including sales smaller in scale and with less logging intensity to extremely low basal areas than the Rattlesnake sale. This is also true for other National Forests in the region, including the Umatilla, the Ochoco, and the Deschutes. It is arbitrary and capricious for the Forest Service not to use an EIS for the Rattlesnake project. We commented on this in Scoping, clearly requesting an EIS in Scoping comment pages 10 & 19. Examples of our request for an EIS in our comments:

"The following are key issues for which we request detailed analysis in an EIS for the Rattlesnake project..." (Scoping, p. 10)

"Please disclose and discuss in the EIS the cumulative impacts..." (Scoping, p. 19)

Resolution:

The only resolution for this objection is for the Forest Service to prepare a full EIS with detailed analysis for the Rattlesnake project with a 45 day comment period.

Failure to Adequately Analyze the Direct, Indirect, and Cumulative Impacts of the Project and to take the requisite "hard look" at project effects:

While it was impossible to know the relative adequacy of analysis in the EA prior to its completion, we anticipated the potential inadequacy of analysis in our scoping comments based on past experience and responded to inadequate and misleading analysis in the Scoping letter itself. See our Scoping comments on pages 4, 6, 10, 11, top of 12, bottom of 19, top of 20.

& An example of our concern regarding typical incomplete & inadequate analysis in the Scoping letter that was not rectified in the EA:

"The Forest Service systematically ignores all the impacts of proposed logging and the critical need to retain live mature trees as long-term carbon sinks to slow extreme climate change...." (scoping comments, p. 6)

We also requested detailed analysis in an EIS on many key issues, some of which were not addressed adequately through detailed analysis in the EA, such as the following:

"- the ecological benefits of allowing natural disturbances to happen, including wildfire, insect defoliation, and tree diseases (native tree diseases) for thinning the forest (at no cost), avoiding logging and roading impacts, and creating habitat niches for wildlife that evolved with these natural disturbances...." (p. 10)

Redband trout, or to Columbia Spotted frog and potential Sensitive-listed riparian plants, given the lack of project-specific plant surveys."

(~~EA~~ comments on EA p. 3-107 for this objection)

"The cumulative effects analysis for aquatic species is disturbingly vague, incomplete, unquantified, and inadequate overall. This is how species decline and ~~go~~ eventually go extinct - by repeating the same management mistakes even when the species are already threatened by degraded conditions and glossing over the potential negative outcomes with inadequate and biased cumulative effects analysis." (our comments for this objection on EA p. 3-108)

Resolution

The Forest Service must prepare an EIS with a full 45 day comment period with adequate detailed analysis of the effects of proposed actions and the preferred alternative for the Rattlesnake project.

Failure to use Best Available Science and Inaccurate Use of the Science:

We found repeated inaccurate use of the science and failure to use the full range of best available science (biasing the analysis to favor the preferred/ proposed alternative) within the Scoping ~~and~~ letter and intrinsic to the inconsistency with the Purpose and Need for the project with the proposed management actions and commented on this during Scoping in our Scoping comment pages 12, 3, 4, 5, 8, and 9 and 19.

These failures to use the full spectrum of best available science and to use the science accurately were mostly replicated within the EA. We also specifically commented on this on the EA (new information) for this objection on EA p. 3-141:

"The Forest Service is using best available science that contradicts their assumption (on DEA p. 3-141) that mixed severity to stand replacement fires 'did not historically occur' on higher elevation forest with historical moister mixed conifer, including Grand fir, (in the project area), as well as in Ponderosa pine forests." (on EA p. 3-141)

Please see also our enclosed summary of some of the best available science that was not considered in Scoping or in the EA, and our separately sent science studies that have been omitted from consideration in Scoping and the EA.

Resolution: BMBP has commented on this objection.

The Forest Service needs to complete a full DEIS that includes consideration and analysis of the full spectrum of best available science and accurate use of the science in a Draft EIS with a 45 day public comment period.

Violation of the Healthy Forest Restoration Act
regarding planned logging of large and old trees
(See the following pages based on the Draft Decision Notice.)

Kathleen's Objection ~~Outline~~

~~Add:~~ Violation of HFRA is: Also a NFMA violation of the Forest Plan Eastside Screens
 The Draft Decision Notice states that (on p. 4)

"HFRA-authorized fuel projects must be designed to retain or culture old growth forest structure and large trees according to provisions in the law." (DDN p. 4) Yet on page 6 of the Draft Decision Notice, the FS admits that:

"Treatments in the upland stands would consist of removing grand fir up to 30 inches diameter at breast height (DBH) to reduce hazardous crown fuels and promote a more historical pure pine stand." (DDN p. 6)

Felling or removing Grand fir up to 30" dbh would be in direct violation of HFRA's legal requirement "to retain or culture old growth forest structure and large trees," as Grand fir are up to 30" dbh meet the Forest Plan definition of both old growth and large trees by ~~exceeding~~ ^{exceeding} the Eastside Screens standard of 21" dbh for determining a large or old growth tree. The Eastside Screens have not been invalidated by a new revised Forest Plan that would eliminate its application under the existing Forest Plan and is still in effect. So this is also a violation of the Malheur Forest Plan.

Not logging Grand fir over 21" dbh would not (as claimed in the DDN, p. 6) prevent agencies from reducing wildland fire risk to communities and at-risk Federal land. "Large Grand firs up to 30" dbh are indicative of historically moist cool forest type conditions and are simply not numerous enough

to ~~reduce~~ significantly affect the (theoretical) reduction of wild fire "risk." Further, Grand fir certainly evolved with wild fire and are adapted to fire processes, contrary to the DDN claim to the contrary. Larger, ^{older} Grand fir develop thicker, more fire resistant bark and do not always die in wildfires as catface & burn scars and scorch marks on live Grand fir attest.

Further, ~~white~~ Grand fir $\geq 21"$ dbh are certainly large based on the residual smaller diameter logging from multiple extensive timber sales in the Rattlesnake area, which is all it takes for logging them to be in violation of HFRA. Additionally, many Grand fir $> 21"$ and $< 30"$ dbh are likely to ^{all} fit the definition of old growth (150 years or greater in age) as many of the Grand fir in this size class in the Rattlesnake project area display old growth characteristics. See our sample photos. The Deschutes National Forest actually cored Grand fir to determine the appropriate dbh size at which statistically the Grand fir trees were likely to be old growth and determined this size to be 22" dbh, only one inch higher than the 21" dbh limit set by the Malheur Forest Plan, not 30" dbh.

The DDN admits that alternative 3, which would not log trees $\geq 21"$ dbh would still meet the purpose and need for the project.

④ Failure to consider the full range of best available science re: effects on large tree retention and future snags. (DNP p. 6) The DDN fails to consider that the current best available science that finds that all the similar fuel reduction projects (timber sales) that have already been implemented across the West have not resulted in any significant reduction in wildfire incidence, size, or severity. Designing a purpose and need for a commercial timber sale based on a purpose and need of "fuel" reduction also fails to consider all the current best available science that finds "fuel" loading (biomass levels) not to be a primary driver of high intensity wildfire, which is much more determined by weather conditions such as ambient air temperature, relative humidity, and wind speeds. The well documented heavy reliance of Pileated Woodpeckers on Grand fir for foraging was not considered in the DDN for Conclusion that the theoretical benefits of "fuel" reduction "outweigh the deleterious effects to terrestrial wildlife that utilize that habitat." (DNP p. 7) Black bears also preferentially use Grand fir snags and logs for foraging. This was quite obvious from our surveying of not only Rattlesnake, but many other timber sales. Our field surveying also documented that ^{large} Grand fir occupies areas which were heavily logged out of Grand fir that was more prevalent in the past, not less. The areas where most large and old

Grand fir were found in the Rattlesnake project area are where they would be expected to be found, based on best available science not considered in the EA. These habitat niches include higher elevations with heavier, more persistent snowpack, North and Northeast slopes, moist hollows, riparian areas, and ash soil areas. Most of the large Grand fir at risk of being logged are not in areas formerly dominated by Ponderosa pine, as the DDN implies on p. 7. We are open to thinking of much younger, smaller Grand fir in Ponderosa pine dominant areas. However Grand fir that legitimately could be considered "encroaching" due to fire suppression (and past logging and allowed overgrazing by livestock by the Forest Service) are generally only up to 8-12" dbh, depending on the site, not larger. Effective widespread fire suppression did not take place until the 1950's, so most Grand fir caused by wild fire suppression would be less than 70 years old and generally small in diameter. This is also based on best available science that the ^{DDN} EA failed to consider re: commercial size logging planned.

Resolution: BMBP has commented on the Draft Decision Notice regarding this objection as above as well as on the related Eastside Screens Violation re: logging large trees $\geq 21"$ dbh in Scoping on pages 13, 14, 15, 17, 23, 24, and 25 and on the EA - pages 3-79, 3-141, 3-143, & 3-144-145.

To resolve this objection regarding violation of the Healthy Forest Restoration Act (HFRA), the Forest Service must drop completely all planned logging of trees $\geq 21"$ dbh in aspen areas and including all Grand fir $\geq 21"$ dbh and less than $30"$ dbh, which are planned for logging, and drop the associated Forest National Forest Management Act Plan amendment.

Failure to provide for the Viability of Management Indicator Species and other Wildlife Species:

This was raised as a concern in our Scoping comments: "We are very concerned about continuing viability for many Management Indicator Species, including listed, and sensitive species, including plants, due to the foreseeable heavy ecological impacts from this sale." (Scoping comment on pp. 25-26)

We are able to raise this objection issue also based on new (since Scoping) information divulged in the EA with specific concerns regarding the continued viability of the following Management Indicator Species:

Pileated woodpecker (objection raised on EA pages 3-57 ~~3-109~~ ^{on}), American marten (EA p. 3-57), Williamson's Sapsucker (on EA p. 3-51), ~~etc~~ Rocky Mountain elk (and Mule deer) (see EA pp. 3-69 through 3-75), and Redband trout (which are also Sensitive-listed) - see EA pages 3-107, 3-108, and 3-109.

For example: "The Forest Service has failed to monitor the population status of MIS [Management Indicator species], which is necessary to ensure their viability,

as required for by NFMA. A case in point is the lack of specific information on population status and trends for Redband trout, which makes the vague assurances of the DEA cumulative effects analysis meaningless." (on EA p. 3-109)

We also expressed concern over the future viability of Northern goshawks in the Rattlesnake planning area: "The DEA fails to mitigate the cumulative impacts (disclosed) to goshawks by dropping commercial logging in sale units most likely to affect nesting and suitable foraging habitat in proximity to known goshawk pairs," (on EA p. 3-84)

Resolution: BMBP has extensively commented on this objection regarding new information in the EA (see enclosed copies of additional EA comments for this objection) and also raised this objection concern during Scoping.

To resolve this objection, the Forest Service must do the following:

- * Drop all planned logging of large trees $\geq 21"$ dbh (planned in both aspen areas and across thousands of acres for Grandfir $> 21"$ dbh and less than $30"$ dbh.
- * Incorporate higher basal area retention ranges across all commercial logging sale units, with the minimum being 40 sq. feet of basal area.
- * Drop all LOS sale units from commercial logging but "noncommercial" size thinning can take place

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up to 9" dbh in mixed conifer LOS that has moister plant associations or is at higher elevation with evidence of historic Grand fir ~~and~~ Douglas fir (see our survey sheets for both indicators per sale unit) and up to 10-12" dbh in dry Ponderosa pine LOS as needed, with the higher range of thinning up to 12" dbh adjacent to or near old growth Ponderosa pines.

* Drop all commercial size logging (> 9" dbh) from within INFISH RHCA buffers with the exception of conifer removal ~~of~~ ^{*} of conifers only up to 21" dbh that retains the largest conifers, and all trees providing primary shading to streams or stream bank stability -
* in aspen stands only.

* Drop the proposed Forest Plan amendments.

* Drop commercial logging and removal of Grandfirs greater than or equal to 21" dbh in sale units 355, 283, 280, 281, 273, and 402 (about 266 Acres - see EA p. 3-83) to better protect goshawk nesting territories and suitable nearby foraging habitat (and PFAs) due to known nesting locations and documented Northern goshawk in these areas.

* Drop prescribed burning in all suitable and known Pileated woodpecker habitat, which likely includes most potential marten habitat. See our survey sheets under "Species evident" for Pileated woodpecker foraging, nest or roost holes, calls, and sightings to determine active and suitable habitat in sale units. ~~3~~

P.21 * Prohibit Spring reproductive season prescribed burning to better protect Northern goshawk and other bird species' reproduction, young mammals in burrows, sensitive plant reproduction, and soil moisture retention for the dry season.

* ~~Drop~~ Forest Plan violations:

Violation of the Eastside Screens regarding logging live trees $\geq 21"$ dbh that are not hazard trees:

See our scoping comments raising this objection on Scoping comment pages 13, 14, 15, 17, 23, 24, & 25. We also raised this objection in our comments on the new information in the EA on EA pages ~~3-141~~, 3-141, 3-143, 3-144, and 3-145.

Our arguments concerning this objection include the following:

* Removing Grand fir greater than or equal to 21" dbh and less than 30" dbh^{*} would be a significant impact to wildlife and nutrient cycling, as well as to carbon storage. Many of the trees up to 30" dbh are old growth and were historically present. Wildlife species depend on large structure that would be lost, including species dependent on ~~old~~ Grand fir in particular. (such as Pileated woodpecker) "Large trees are generally more resistant to wild fire. Most of the conifers competing with aspen are less than 21" dbh, not more."

(all on EA p. 3-143, our comments)

* on
3,802
acres

"Cumulatively, the acres on which a person may see trees greater than or equal to 21" dbh (large trees) would obviously be decreased, not increased, as claimed in the DEA (on p. 3-144), with the removal of existing large trees - over the near, mid-, and long-term." (on EA p. 3-144)

"The DEA fails to analyze the on-site impacts to wildlife, nutrient cycling, carbon storage, and recreational values from removing large trees, including effects within the sale area itself and on the District and cumulatively across the District and the Malheur National Forest." (re: EA p. 3-144 & other pages) "It's not likely that a sale 20-22 years ago "has likely recovered with the growth and development of additional large trees, as most of the remaining trees are small. These are still cumulative effects." (written on EA p. 3-144)

"See our survey sheets and photos for evidence of historic Grand fir in areas where there are numerous Grand fir ≥ 21 " dbh, including old growth live trees, old and growth Grand fir snags, logs, and stumps," as well as log decks of old growth Grand fir. Also see our photo descriptions on survey sheets, as well as old growth counts including Grand fir. (written quote on EA p. 3-145) See also our pages re: the HFRA violation. Resolution BMBP has extensively commented on this objection.

- * The Forest Service must drop all planned logging of trees ≥ 21 " dbh except legitimate hazard trees, including for Grand fir and in aspen stands, and must drop the proposed Forest Plan amendment.

Violation of the Eastside Screens regarding
INFISH "No Logging" RHCA buffers

See our Scoping comments raising this objection on pages 17 (re: logging conifers $\geq 21"$ dbh in aspen stands) and re: logging trees $> 9"$ dbh in RHCA buffers on pages 17-18 and re: the Forest Plan amendment to allow large tree logging and re: logging large trees in aspen stands on p.25. We also commented on this objection with reference to new information in the EA which detailed the large number of acres with commercial logging planned in the RHCA^{EA}s on p. 3-98 and the proximity of this logging to and within Redband trout occupied habitat - within occupied Redband trout habitat for about .77 miles in Rattlesnake Creek, 1 mile in East Fork Rattlesnake Creek, and 7.1 miles in West Fork Rattlesnake Creek. There would be a total of a whopping 1,925 acres of commercial logging and non-commercial thinning within RHCA^{EA}s, including 581 acres of commercial and noncommercial thinning in Category 1 RHCA^{EA}s, which have perennial streams with fish.

Our comments for this objection rationale on the information in the EA include the following: "These are extensive cumulative, direct, and indirect negative effects to

Redband trout habitat and water quality, as well as to stream RMOs (Riparian Management Objective Attainment) within a project area where the streams are already severely degraded from past logging and road-building, and ongoing overgrazing by cattle. Commercial logging is not ecologically justified or acceptable in these RHCA's due to their already degraded conditions and potential negative impacts to Bull trout, Columbia Spotted frog, attainment of INFISH RMOs, and riparian-associated Sensitive plants." "There is no detailed quantified analysis supporting DEA claims (on p. 3-98) that the effects of heavy equipment use in RHCA's "would not be sufficient in ~~measuring~~ to result in a meaningfully measurable reduction of pool habitat," or detrimental sediment loading to Redband trout, or not cause a reduction in stream shading and bank stability, leading to further increase in water temperatures and sediment loading." (EA comments written on EA p. 3-98)

Resolution:

The Forest Service must drop commercial and commercial size logging outside of aspen stands that would be within RHCA's and maintain trees shading streams or contributing to bank stability within aspen stands as well.

The Proposed Forest Plan amendment would violate the existing Malheur Forest Plan.

He raised this objection issue during Scoping in comments on pages 16, 22-23, and 24-25.

See also our earlier quoted comments on the EA for this objection under "Forest Plan Violations" and "Eastside Screens" re: logging of large trees on pages 21 and 22 of this objection. We also raised and discussed this objection in our discussion of the violation of the Healthy Forest Restoration Act on objection pages 14-17 (see above).
Resolution:

The Forest Service must drop the proposed Forest Plan amendment allowing the logging of large trees other than hazard trees $\geq 21"$ dbh in violation of the Eastside Screens prohibition against such large tree logging, and thus in violation of the Malheur Forest Plan. This Forest Plan amendment is also not site specific, as discussed in our comments, and uses improper procedure and was not based on the full spectrum of Best Available Science, as discussed in our Comments on the Draft Decision Notice (see objection pages 14-17).

Violation of Forest Plan soil standards:

In response to new information in the EA, we are specifically concerned by potential detrimental soil impacts exceeding Forest Plan standards that are discussed on EA p. 3-110.

Our proposed resolution comment below clarifies our objection rationale:

Resolution:

"Drop sale units 3, 362, 127, 156, 219, 262, & 9068

from any heavy equipment use and logging due to existing high detrimental soil impacts and higher potential for long-term soil damage that may not be fully mitigated by sub-soiling. The DEA admits that the detrimental soil impact-related Forest Plan standard exceedance would be mitigated only "where possible." (DEA p. 3-110) See also our survey sheets' sale unit descriptions and subjective evaluations for additional cumulative impact concerns. (EA comment re: EA p. 3-110)

Violations of the Endangered Species Act

Our raising of this objection on Scoping Comment pages 25-26 was already quoted under NFMA Violations above. As the EA presented much more specific information, we raised concerns in our current comments on the EA for this objection on EA pages 3-36 re: Bald eagle; ~~3-36 re: Pileat~~ 3-43 & 3-45 re: Sensitive bat species; p. 3-98 re: Sensitive Redband trout (already quoted under Eastside Screens violation - INFISH RHCA's above, in this objection on pages 23 & 24); ^{on} EA p. 3-107 re: Redband trout, potential Sensitive mussels, and Sensitive Columbia Spotted frog; and on EA pages 3-108 and 3-109, with a quote from p. 3-109 appearing in the NEPA-Cumulative impacts section of this objection. An example of our comments for this objection rationale on the EA: "The DEA admits that overall direct, indirect, and cumulative effects would result in a negative trend of habitat for Redband trout."

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and Columbia Spotted frog without disclosing current population status and trends for either species. Even a "small" negative trend over the "short" term can extirpate species already in trouble. By shifting to the Forest scale of analysis from the stream, project, and District scale, the Forest Service allows for incremental extirpation of species." (comment for objection, written on EA p. 3-109.)

Resolution:

See the list of our proposed remedies for resolution under NFMA on pages 19-21.

Clean Water Act violations:

We are concerned by the vague, insufficient analysis for Water Quality issues in the EA. The new information in the EA regarding three streams in the project area being 303(d) listed for water quality impairment - water temperature (on EA p. 3-96) greatly concerns us regarding proposed commercial logging and heavy equipment use within RHCA buffers. See our comments on this under Forest Plan Violation - Eastside Screens - Logging in RHCA's. Further, existing stream temperatures are in exceedence of water temperature standards for Redband trout. See EA pages 3-96-3-99.

See our comments on EA p. 3-98 already quoted above under Eastside Screen violations, logging in RHCA's. Also see EA comments on pp. 3-102 & 3-108.

Resolution:

The Forest Service must drop all commercial logging and heavy equipment use in RHCA's other than in aspen restoration stands (while retaining all trees providing stream shading or bank stability), including by dropping any "temporary" roads and stream crossings, and re-opening of closed roads that are within RHCA's.

Climate Change analysis as inadequate

Our rationale for this objection is fully expressed in the enclosed EA comments for this objection written on pages 3-145-3-148. This objection was also raised in scoping comments on p.16.

Resolution: The Forest Service needs to prepare a full EIS with detailed analysis of the Rattlesnake project's climate change effects based on the full spectrum of best available science and with a 45 day comment period and drop most mature tree logging as suggested in this objection, including by not logging any large trees $\geq 21"$ dbh and only non-commercial size thinning in LOS sale units as suggested above, with up to 12" dbh thinning only in very dry Ponderosa pine dominant stands.

Undeveloped lands: See our comments on new information in the EA raised on EA pages 3-132-133. (enclosed)

Resolution: Drop all commercial logging and road building on undeveloped lands.

Thank you for consideration of our objections. (1541)
 For the Wild, Karen Fulton 385-9167
 Blue Mountains Biodiversity Project, Karen Coulter, Director
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