OBJECTOR'S NOTICE OF OBJECTION, STATEMENT OF ISSUES AND LAWS, AND REQUESTED REMEDIES

NOTICE OF OBJECTION

August 31st, 2019

Forest Supervisor, Reviewing Officer
c/o Elysia Retzlaff, NEPA Planner
Ochoco National Forest
3160 NE 3rd Street
Prineville, OR 97754

RE: Blue Mountains Biodiversity Project's objection to the Ochoco National Forest Black Mountain Vegetation Management Project Draft Record of Decision and Final Environmental Impact Statement

Dear Objection Reviewing Officer,

Blue Mountains Biodiversity Project (BMBP) hereby formally submits the following objections to the Ochoco National Forest Black Mountain Vegetation Management Project (Black Mountain) Final Environmental Impact Statement and Draft Record of Decision. 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 extensive comments on the Draft Environmental Impact Statement, including field survey sheets and photographs from our surveying the affected area for weeks.

Decision Document
Black Mountain Vegetation Management Project Final Environmental Impact Statement and Draft Record of Decision

Date Decision published
July 19th, 2019

Responsible Official
Johanna Kovarik, District Ranger, Paulina Ranger District, Ochoco National Forest

Description of the Project
The Ochoco National Forest Service has selected in its entirety Alternative 2, including the following proposed management actions. Therefore, this objection focuses on Alternative 2, as specified in the Draft Record of Decision. Alternative 2 includes:
* a total of 4,645 acres of commercial thinning outside of RHCAS
*442 acres of commercial thinning in RHCAs
*1,399 acres of noncommercial thinning only
*5,087 acres of noncommercial thinning after commercial thinning
*99 acres of noncommercial hardwood enhancement
Other connected management actions include:

*4.7 acres of material source expansion
*construction of 0.5 miles of new temporary roads
*23.4 miles of temporary road construction on existing disturbance
*135.88 miles of road maintenance
*23.66 miles of road reconstruction
*3 culvert replacements
Similar actions include:
*7.7 miles of stream restoration
*6 culvert replacements
*5.87 miles of riparian protection fencing
*creation of riparian pasture
*53 acres of large wood source from upland sale units
*576 acres of large wood source from riparian sale units
The Black Mountain timber sale (aka "Vegetation Management Project") would produce an estimated volume of 17.8 MMBF and include management activities over 6,585 acres.

The Draft Record of Decision also includes further detailed descriptions of the selected Alternative 2, which can also be found in various sections of the Black Mountain Environmental Impact Statement.

Location

The Black Mountain project area encompasses approximately 34,013 acres, located about 35 air miles east of Prineville, Oregon and is located on the Prineville Ranger District of the Ochoco National Forest. The project area is directly adjacent to Big Summit Prairie and the southern portion of the Bridge Creek Wilderness in Crook and Wheeler counties.

Appellant's 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; fishing; relaxing; bird, wildlife, and wild flower viewing; photography; hunting; and more. The value of the activities engaged in by BMBP volunteers, supporters, and staff would be damaged by the implementation of this project.

BMBP is a non-profit organization that works to protect Eastern Oregon National Forests. Staff, volunteers, and supporters of BMBP live in various communities surrounding the Ochoco 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 products; and other purposes, such as solar eclipse viewing.

Request for meeting

BMBP requests a meeting with the Forest Service to discuss matters in this objection and seek resolution of concerns through negotiation before the Ochoco Forest Service makes a final decision on the Black Mountain Project.

Specific issues addressed in this objection

NEPA (National Environmental Policy Act) violations, including: proposing actions inconsistent with achieving the stated purpose and need 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 controversy; inaccurate use of the science; and failure to use the full spectrum of best available science.

Violations of the National Forest Management Act (NFMA) and the Ochoco Forest Plan, including failure to provide for population viability for multiple Management Indicator species and other wildlife species and violations of the Ochoco Forest Plan.

Potential violations of the Ochoco National Forest Plan include violations of management area guidance and Forest Plan standards, including INFISH/PACFISH requirements and Northern goshawk protections under the Eastside Screens; violations of Management Areas guidance for Wildlife Connectivity Corridors; Developed recreation; visual corridors; and Wild and Scenic River corridors; and Forest Plan standards for elk and deer winter range; scenic values; snag density/abundance; and impacts to soils.

Endangered Species Act violations include contributing to a trend toward federal uplisting for the following species: Threatened-listed Gray wolf; Threatened-listed Canada lynx; Sensitive Columbia Spotted frog; Sensitive Redband trout; and various Sensitive-listed plants known to be or suspected to be within the project area.

Clean Water Act violations include failure to demonstrate that the proposed actions will not further impair or retard water quality recovery for Crooked River, a Wild and Scenic River, and for streams still on the 303 (d) list for water quality impairment (e.g. for stream temperature) or with TMDLs and water quality management plans.

We also express concerns regarding "temporary" road construction and closed road re-opening, and potential impacts to climate stability.

BMBP objects to the Black Mountain Project for the following reasons:

I. The Black Mountain project violates the National Environmental Policy Act

The Black Mountain project violates the National Environmental Policy Act in the following ways: inconsistency with the stated "purpose and need" of the project; failure to provide an adequate range of alternatives; failure to adequately analyze direct, indirect, and cumulative impacts of the project; failure to take the requisite "hard look" at project impacts required by NEPA; failure to disclose scientific controversy; inaccurate use of the science; and failure to use best available science.

Inconsistency with the stated purpose and need of the project

The Black Mountain project is not consistent with all the purpose and need goals as expressed in the Environmental Impact Statement. The Black Mountain project included the following statement that constituted the purpose and need for the Black Mountain project on Draft Record of Decision page 4: "The Black Mountain project is needed to restore characteristic (i.e. historic) dry forest vegetative conditions in the Black Mountain project area, thereby increasing resilience to insects, disease, fire, and drought; reducing the risk of uncharacteristic high severity fires; enhancing and restoring hardwood communities; and protecting and enhancing wildlife habitat for an array of species."

The need for action should be based on current habitat conditions within the project area, which we field-surveyed and documented in our survey sheets, incorporating our field survey sheets and photographs of conditions on the ground as part of our comments.

Examples of our comments on the inconsistency of proposed management actions with the stated purpose and need for the Black Mountain project:

"The Forest Service has yet to offer compelling evidence that all the thousands of acres of 'fuel reduction/fire risk reduction' timber sales across the West have significantly reduced the 'risk' (incidence, extent, or severity) of wildfire, or increased resilience to insects, disease, fire, and drought. Logging produces unnatural impacts to soils, water quality, carbon sequestration, forest structure, nutrient cycling, etc. that decrease forest resilience to natural disturbances. Logging (especially mature and large tree logging) is not restoration. Species evolved with natural disturbances, but not with logging, livestock grazing, and fire suppression."
"The DEIS fails to acknowledge that heavy logging and wildfire suppression by the Forest Service have created the existing problems and thus more of the same won't help. For instance, overlogging mature forest overstory has increased young [tree] stand density (along with fire suppression) and logging actually spreads root disease and mistletoe. Logging homogenization of stands as plantations have fueled defoliating insect outbreaks over larger areas." (BMBP Comments on DEIS p.10)
"It's not as if the Forest is incapable of thinning itself through natural disturbances, or as if the thinning that really needs to happen isn't just small young trees that could be thinned by hand. As the DEIS admits, the commercial logging is being used to pay for restoration as its primary function." (BMBP Comment on DEIS p.22)

Our additional comments on inconsistency between the stated purpose and need and proposed management actions can be found written on DEIS pages 8, 10, 22, 38, 42, and 165.

Resolution

BMBP has commented on its objection to the Ochoco National Forest's (ONF) Black Mountain DEIS in comments (see quotes and citations above.) More of our comments on this objection include:
"Many sale units should be dropped or reduced in size due to access limitations, given the ecologically unsustainable pace and scale of current Forest Service logging in Eastern Oregon." (BMBP Comment, DEIS p.22)

We request that, to be consistent with the purpose and need for the project, conditions on the ground, and restoration goals, that the Forest Service:
*Reduce the scale and intensity of planned logging overall to reduce logging of mature trees (e.g. 15" dbh to 21" dbh) that would otherwise be next in line to become future large trees and restore large trees to the landscape.
*Reduce the logging impacts to forest resiliency and structure and to maintain heterogeneous conditions and greater biodiversity. Decrease the number of commercial logging sale units by dropping commercial logging in moist mixed conifer, cold dry Lodgepole pine forest, and in old growth and Late and Old Structure forest. See our survey sheets for guidance as to the best wildlife habitat in sale units, according to our characterization of conditions and our recommendations to drop or modify sale units.
* We are largely not opposed to the Forest Service reducing smaller tree density in even-aged Ponderosa pine plantations (see our survey sheets) but we want the Forest Service to stay out of all mixed conifer LOS except for some noncommercial-size thinning up to 6-9" dbh.
* Increase basal area retention in remaining sale units and leave more patches of diverse tree species and density within sale units for greater variability across the landscape
*Drop sale units that are most used by wildlife, including species dependent on large trees and large or

abundant snags such as MIS primary cavity excavators and for wildlife needing greater levels of security cover, such as Northern goshawk, Rocky Mt. elk, and Mule deer.

Failure to provide an adequate range of alternatives

The Black Mountain Environmental Impact Statement included an inadequate range of alternatives. Our scoping comments were clear in recommending three viable action alternatives, only one of which the Forest Service analyzed and adopted:

"We are requesting a full range of action alternatives, including a 'Restoration Only/No Commercial Logging' alternative, an alternative that does not log large trees >/= 21" dbh, and an alternative that limits thinning to 10-12" dbh maximum, depending on the mean density diameter of the stand—i.e. which size of tree is causing the most density that could be considered the result of past logging and fire suppression." (Scoping, p.1)

Examples of our related comments on the DEIS:

"Alternatives 2 and 3 do not offer the full range of alternatives required by NEPA as there is very little difference between them as action alternatives. We can't fully support alt. 3 as, like alt. 2, it would log to very low basal areas, and do commercial logging in LOS, wildlife connectivity corridors, and goshawk PFAs, etc., with the only difference being alt. 3 not logging within RHCAs." (BMBP Comment, DEIS p.229)

"As the great majority of tree density is from small trees less that 10" dbh, the purpose and need of reducing stand densities and supporting the growth and survival of more large trees could be met through non-commercial thinning and prescribed burning as a viable action alternative." (BMBP Comment, DEIS p.47)

"The Forest Service should have analyzed a No Commercial Logging alternative and no construction of 'temporary' roads, as all the aquatic restoration appears to be planned separately, not as part of this project, but as 'similar actions', so the forest should not be harmed to 'pay for' this separate aquatic/riparian restoration—especially as such timber sales typically lose money of taxpayers and to the federal treasury and as the purpose and need for this project could be met through non-commercial thinning, prescribed burning, aquatic restoration, and large wood sourcing from existing dense pine plantations for large wood placement in streams." (BMBP Comment on DEIS p.29)

Our other comments on an inadequate range of alternatives in the EIS can be found written on DEIS pages: 21, 42, 46, and 47.

Resolution

BMBP has commented on its objection to the ONF's inadequate range of alternatives in the Black Mountain Environmental Impact Statement and requested a broader range of alternatives in our comments. See our comments quoted and cited above.

To remedy this problem, the Forest Service would either have to reissue a new Environmental Impact Statement offering a full range of alternatives as required by NEPA for public review and comment, or better meet our concerns expressed in related comments as follows:

*Reduce the overall scale of commercial size logging (of mature trees).

*Modify proposed logging intensity to maintain more forest structure for wildlife and soil nutrient cycling.

*Retain more mature trees 15 " dbh and greater, regardless of species, to retain needed future large structure, which is at a great deficit in the project area compared to historic conditions.

*Change more sale units to only non-commercial-size thinning instead of commercial logging, or to no

thinning, throughout the sale unit, especially those sale units with suitable habitat density and canopy closure for Pileated woodpecker; American marten; elk and deer thermal and hiding cover; primary cavity excavators; and Northern goshawk.
*Drop logging of suitable or active Pileated woodpecker and American marten habitat, which are indicated on our survey sheets by high old growth mixed conifer counts per acre; large live, snag, and log tree structure; fresh and recent Pileated foraging sign; and for marten, abundant down wood, large snags, and/or the presence of large enough root wad burrows for marten.
*Drop any sale units or parts of sale units that have never been logged.
*Drop commercial-size logging and all heavy equipment use within the RHCA buffers except for conifer removal in aspen stands up to 21" dbh.
*Drop all "temporary" road construction and greatly reduce the re-opening of currently closed roads. Especially don't reconstruct or re-open roads already grown over or roads that were closed for ecological protection reasons, including roads within riparian buffers or that are hydrologically connected to streams.
*See recommendations on our survey sheets, as well as wildlife species sign mentioned, old growth counts, and forest type, for specific sale units or parts of sale units we want modified or dropped. We appreciate the Forest Service having already gone through our survey sheets to assess our documentation of on the ground conditions and our recommendations.

Failure to adequately analyze direct, indirect, and cumulative effects

The Black Mountain Environmental Impact Statement demonstrates failure to adequately analyze environmental effects of the project throughout the document, including omissions and distortions such as the following addressed in our comments:
"The use of flawed outdated science (a study from 1979?) leads to inaccurate analysis for direct, indirect, and cumulative effects to Northern Flicker from the two action alternatives by focusing only on LOS juniper as suitable habitat and failing to take into consideration much more recent best available science showing that Northern Flicker select for large Ponderosa pines and would therefore be negatively affected by mature tree logging planned that would greatly reduce the abundance of future large Ponderosa pines, including large Ponderosa pine snags. This is inaccurate and inadequate analysis for effects to Northern Flicker, leading to an inaccurate conclusion that is used to support a finding of not contributing to a negative trend in viability on the Ochoco for Northern Flicker. Earlier (p.189), the DEIS for the Black Mountain sale acknowledged a now significant statistical decline in Northern Flickers based on breeding bird surveys. (Sauer et al. 2011)" (BMBP Comment on DEIS p. 207)
Examples of our comments specific to inadequate cumulative effects analysis:
"Cumulative effects are not limited to those that overlap in time and space; otherwise there would not be so many declines in wildlife species populations and cumulative effects-based extirpations of species. This is now a common fallacy within Forest Service NEPA documents. What about concurrent cumulative effects to tree density from overgrazing by livestock or by subsequent prescribed burning?" (BMBP Comments on DEIS p.45)
"The Forest Service needs to start assessing cumulative impacts across the District and the Forest from multiple timber sales, total roading, widespread livestock grazing, etc. to receptor values such as LOS, wildlife habitat, fish runs, etc. Otherwise the inadequate, short-sighted, narrow-focused cumulative effects analysis leads to death by a thousand cuts—species extirpations and extinctions, loss of critical ecological processes and functions, and collapse of forest ecosystems." (BMBP Comment on DEIS p.51)
More of our comments on inadequate cumulative effects analysis can be found written on DEIS pages:

12, 42, 88, 200, 204, 205, 209, 226, and 227.

Resolution:

BMBP has commented on its objection to the ONF's failure to adequately analyze direct, indirect, and cumulative effects of the Black Mountain project on a range of receptors, including potential project effects to existing and future large tree structure; Pileated woodpecker and Northern Flicker; deer, elk, and Pronghorn habitat; Gray wolf dispersal and prey habitat; Northern goshawk; Sensitive plant populations; soil impacts; snag habitat for bird species; and effects of commercial logging in RHCAs to meeting Riparian Management Objectives.
See our comment quotations and citations in the paragraph above and references to inadequate analysis in comments quoted in other sections of this objection.

To resolve this objection, an SEIS needs to be prepared that adequately analyzes direct and indirect effects of the Black Mountain project, and cumulative effects of the project in combination with past, ongoing, and reasonably foreseeable future actions to NEPA standards, with a public comment period to enable informed public comment and agency review.

Failure to use best available science and inaccurate use of the science

There are numerous instances in the Black Mountain EIS of analysis not reflecting the full range of best available science or using science inaccurately. Examples of failure to use best available science and inaccurately using science from our comments:
"Why are the findings of Rose et al. (2001) not fully disclosed re: new information about the ecology, dynamics, and management of decayed wood and not incorporated in the DEIS analysis? The "state of the knowledge continues to change" statement is not a sufficient justification for not considering this newer best available science in the DEIS analysis regarding the study's implications for decayed wood management and primary cavity excavators, as the science always continues to change." (BMBP Comment on DEIS p.190)
"There are some problems with the DEIS analysis of Existing Species Composition and density—1) large severe wildfires were not necessarily 'uncharacteristic' even for dry Ponderosa pine forest types; 2) fire regime classification is questioned in the science; and 3) doubling in the area of actual high severity fire is in doubt." (BMBP Comment on DEIS p.40)
"The Forest Service should abandon the use of inherently inaccurate models pretending to predict forest structural conditions decades into the future while necessarily not accounting for widespread wildfires and insect outbreaks that are likely to be more widespread and intense under extreme climate change. This is a ridiculous exercise (Table 14, DEIS p.49) due to its foreseeable inaccuracy."
"The model projections are also flawed by not incorporating any future logging, when there is no sign yet that the Forest Service intends to stop promoting and implementing incremental deforestation of the National Forests by logging—despite catastrophic climate change."
(BMBP Comments on DEIS p.49)

Other BMBP comments regarding inaccurate use of the science and failure to use best available science include comments re: inaccurate use of the science on DEIS pages 11, 12, 45, 46, and 223 and comments re: failure to use best available science on DEIS pages 8, 9, 11, 40, 41, 42, 46, 53, and 205.

Resolution

BMBP has commented on its objection to the ONF's failure to use best available science and inaccurate use of the science in the Black Mountain project analysis. See our comment citations and quotations in the paragraphs above.

In order for the Black Mountain project to comply with NEPA, the Forest Service needs to incorporate the requisite best available science and use the science accurately, with professional integrity in analysis in a new SEIS available for public comment for the Black Mountain project, to better and more accurately inform public comments, agency review, and decision-making.

Failure to Disclose Scientific Controversy

The Black Mountain project violates NEPA by failing to disclose significant scientific controversy over the efficacy and ecological soundness of managing to reduce the severity of wildfire (essentially acting to further suppress wildfire) as a natural disturbance and implementing heavy commercial logging under the guise of "restoration." This failure to disclose significant scientific controversy leads to consequent suppression of scientific evidence and perspectives supporting other management, or non-management, as opposed to the Forest Service's proposed action alternatives, in the Black Mountain EIS.

Examples of our comments regarding Black Mountain EIS failure to disclose scientific controversy include the following:

"The DEIS analysis fails to disclose that there is no significant evidence that fuel reduction logging actually reduces the incidence, severity, or extent of wildfires or that most wildfires are primarily driven by weather conditions, not 'fuel' loading. There is scientific controversy over the methods used in the East Cascades Hagmann et al. study." (BMBP Comments on DEIS p.41)

"The Forest Service standard method of using HRV assumptions to justify logging now also reflects failure to use current best available science and to disclose scientific controversy, as scientists are now questioning the use of a return to a static point in time (or an historical acreage range) to drive logging when forests will need to adapt to a new climate regime under extreme climate change. The Forest Service conveniently ignores a growing body of climate change science that is far more current and appropriate than Powell's stocking levels study and HRV estimates and calls for protection of mature forest from logging to retain carbon sequestration and for protection of more wildlife refugia and migration connectivity corridors from logging to help species' adaptation." (BMBP Comment on DEIS p.46)

An additional BMBP comment regarding failure to disclose scientific controversy can be found on DEIS p.23.

Resolution:

Blue Mountains Biodiversity Project has commented on the Forest Service's failure to disclose scientific controversy in the Black Mountain EIS. See our comments quoted and cited in the paragraph above.

To resolve this objection, the Forest Service must thoroughly disclose existing scientific controversy over agency assumptions and management plans in an SEIS available for public review and comment. The Forest Service needs to use the full spectrum of best available science reflected in the controversy to guide management plans and to provide for a broader selection of action alternatives and changes in management direction.

II. The Black Mountain project violates the National Forest Management Act

The Black Mountain project violates the National Forest Management Act in the following ways: failure to ensure the viability of Management Indicator and other species; violation of management guidelines for Wild and Scenic River corridors, deer and elk Winter Range; Developed Recreation and Visual Corridors; and Wildlife Connectivity Corridors. The Forest Service is in potential violation of Forest Plan standards and guidelines for riparian area (RHCA) protection; scenic values, snag density, and protection of soils through proposed actions. The Forest Plan requires adherence to INFISH requirements, including moving toward attainment of Riparian Management Objectives in forest areas, and protection guidance for the Northern goshawk under the Eastside Screens requirements.

Failure to ensure the viability of Management Indicator Species (MIS)

Our comments noted many areas of analysis in which the Black Mountain EIS failed to demonstrate that the viability of Management Indicator (MIS) and Sensitive species would be ensured with project implementation. Species of concern for protection of viability included the following Management Indicator species: Pileated woodpecker, American marten, Primary Cavity Excavator woodpeckers; Redband trout; and Rocky Mountain elk; as well as Northern goshawk, which has protection guidance under the Eastside Screens.

We are also concerned about failure to ensure viability of Sensitive and Threatened-listed species on the Forest, including Threatened-listed Gray wolf; Threatened-listed Canada lynx; Sensitive-listed Wolverine; Sensitive-listed Pacific fisher; Sensitive Columbia Spotted frog, and Sensitive-listed Redband trout.

The Forest Service has legal responsibilities to protect the viability of Management Indicator species, but not to move forest structure toward a theoretical Historic Range of Variability (HRV) as an over-riding goal. It's not appropriate or legally justifiable to keep reducing Management Indicator species' suitable habitat (e.g. American marten) in timber sale 'project' after timber sale 'project', even after that species is considered vulnerable by the U.S. Fish and Wildlife Service--which apparently applies now to American marten, who would have suitable habitat acreage reduced under the Black Mountain project. The EIS did not include adequate cumulative effects analysis as to all these reductions of suitable habitat across the Forest. (See our objection and comments above regarding inadequate cumulative effects analysis.) It is not justifiable to plan for continued impacts and cumulative potential loss of species viability for a Management Indicator species (e.g. Pileated woodpecker) based on "long-term" theoretical re-growth of suitable habitat eventually, as the species' viability may be lost before the habitat can grow back—especially given likely planned similar timber sales in the same area in the future, and the 100+ years suitable large and old habitat structure would take to re-develop.

Examples of how our comments express these concerns regarding the failure to ensure the viability of Management Indicator and other species:

"While it may be legal for the Forest Service to analyze effects to wildlife species based on available suitable habitat without species population data, this method for determining effects to wildlife species populations is inherently inaccurate based on Conservation Biology science. Viability of a species can only be determined by long-term population studies in the field that can gather or calculate species population numbers, determine the species' reproductive success rate, determine population trends—including reproductive success trends, and thereby determine species viability thresholds for a given area of suitable habitat. Otherwise the status of a species in the habitat area is unknown and viability cannot be assured, so Forest Service determinations of continued species viability are fatally flawed due to lack

of relevant and requisite data for the species' population." (BMBP Comment on DEIS p.162)
Regarding effects to Primary Cavity Excavator species viability:
"Even without accounting for snag recruitment over time from insects, disease, and wildfire, the reduction in snags from existing levels only from Alt.s 2 and 3 timber sale management is shocking, considering that these numbers include snag recruitment from natural density mortality and snags falling over time. These are high snag reductions, considering that the snag loss must all be from mature tree removal for future snags plus presumably less loss from hazard snag felling."
"Reductions in high snag abundance from 16.2 per acre and from 18.9 per acre to [5.5 per acre and] 11.9 per acre for 10-19" dbh are significant for woodpecker species dependent on very abundant snags of that size class, including, for Ponderosa pine/Douglas fir, Blackbacked, Hairy, Lewis', Northern Flicker, Whiteheaded, and Pileated woodpeckers (Figure 9, DEIS p. 194) and for Eastside Mixed Conifer, Blackbacked, Hairy, Northern Flicker, Whiteheaded, Pileated, and Williamson's sapsucker woodpeckers—most of the woodpecker species in the region."
(BMBP Comments on DEIS p.198)
Re: our concerns regarding protection of Northern goshawk viability:
We note " DEIS analysis and science citations that support our concerns regarding proposed commercial logging in N. goshawk PFAs [Post Fledging Areas] reducing or eliminating habitat suitability in areas set aside under the Forest Plan Eastside Screens for goshawk protection" on DEIS p.222. "Sufficient canopy closure (likely >/= 60%) is also needed for fledglings in PFAs due to needed security from avian predators and human disturbance. See DEIS p.222, 2nd to last par. The Black Mountain timber sale logging in Northern goshawk PFAs would likely reduce canopy closure to less than 35-40%, rendering the habitat unsuitable for nesting and drastically eliminating security for fledglings. See the Bright-Smith and Mannan,1994, and Beier and Drennan, 1997, citations on DEIS pages 222-223." (BMBP Comments on DEIS p. 222)
Re: our concerns that the viability of Pileated woodpecker would not be protected:
"Actually the Blue Mountains Forest 'Resiliency' Project planning has abandoned any pretense of only logging within dry forest types and would include substantial impacts to moist mixed conifer forest. The Jackson sale affects a lot of mixed conifer Pileated woodpecker habitat and the Gap sale does target mixed conifer old growth habitat that may be suitable for Pileated woodpecker within RHCA buffers."
"There's no quantification of impacts to Pileated from all these timber sales to support the claim of 'within HRV' cumulatively."
"Once again, an assumed static HRV is used to justify continued elimination of habitat—this time for Pileated woodpecker—through logging."
"The OGMAs and PWFAs combined still do not add up to enough intact habitat in blocks to support Pileated woodpecker pairs, as Evelyn Bull's research shows that under ideal conditions for Pileated, a pair needs over 900 acres of high quality habitat, not just 600 acres. The Forest Plan 300 acre block requirement for OGMAs and PWFAs is outdated. The Forest Service should be using the best available current science to ensure Pileated woodpecker viability rather than relying on insufficient acreage of outdated science-based OGMAs and PWFAs (PFHs) to protect their viability, as the rest of the landscape is logged."
"Again, the analysis suddenly shifts scale to the Forest level for the conclusion re: Pileated woodpecker viability without assessing effects of timber sales across the entire forest."
(BMBP Comments on DEIS p.205)

See our additional comments supporting our objection re: the need to maintain the viability of MIS species under NFMA:
Re: Pileated woodpecker: on DEIS pages 191, 201, 203, and 204

Re: negative effects to LOS habitat for LOS-dependent species: on DEIS pages 48 and 51
Re: American marten: on DEIS pages 204 and 205
Re: Primary Cavity Excavating woodpeckers: on DEIS pages 189, 192, 194, 199, 200, and 206
Re: Mule deer and Rocky Mountain elk: on DEIS pages 12, 14, 209, 211, and 215, and see also concerns re: degradation of wildlife connectivity corridors on DEIS pages 228, 229, and 230.
Re: Redband trout and Columbia Spotted frog see INFISH comments below under Forest Plan violations. We also listed both Redband trout and Columbia Spotted frog as species of concern to us regarding potential impacts from logging and road building in our Scoping comments. However the Forest Service apparently did not analyze effects to Columbia Spotted frog and Redband trout specifically in the DEIS. This represents inadequate analysis.

Resolution

BMBP has commented on its objection to the ONF's failure to provide for viability of Management Indicator and other species in the Black Mountain project. See our comment citations and sample quotes in the above paragraphs.

Resolution of this issue would include:
Re: Pileated woodpecker and marten viability: Drop commercial logging and prescribed burning in all sale units that incorporate suitable or active habitat for Pileated woodpeckers and American marten, which would be cooler, moister mixed conifer old growth or LOS habitat with 40-60% canopy closure or more, and for marten, abundant down and elevated logs for winter foraging, as well as large snags for both species. See our survey sheets for guidance re: fresh Pileated foraging and/or Pileated nest or roost holes in snags and abundant down and elevated logs and large snags for marten. There is also Pileated woodpecker nesting in old growth Ponderosa pine habitat, generally in proximity to old growth Grand fir foraging habitat in riparian corridors.
Re: Primary Cavity Excavating woodpecker viability: Protect large snags and groups of snags and significantly reduce snag loss by reducing mature tree logging, especially in the 15-21" dbh range and by dropping "temporary" road construction and closed road reconstruction to reduce loss of snags through hazard tree felling.

Re: Northern goshawk and MIS American marten and Pileated woodpecker:
* No commercial-size logging in suitable primary goshawk habitat and PFAs, suitable marten habitat, suitable and active Pileated woodpecker habitat, with no overstory canopy reduction in these areas;
* No log and snag reduction in suitable and active American marten and Pileated woodpecker habitat;
* Drop all commercial-size logging in wildlife connectivity corridors;
* No prescribed burning of suitable habitat for Pileated woodpecker and American marten;
* Drop all commercial logging, noncommercial thinning, and prescribed burning within any undeveloped lands.
*Drop planned "temporary" roads as these often remain on the landscape and increase access for illegal firewood (often large snag) cutting and fur trappers and for disturbance to nesting goshawks, and reduce re-opening of closed roads for the same reasons.
*Drop any commercial logging in known goshawk PFAs, as well as in any other goshawk activity centers (nests and PFAs) discovered.

Re: deer and elk:
* Retain more overall tree density and deer and elk cover—especially by dropping sale units in cool

moist and cold dry habitat and in microhabitat patches where greater density would naturally occur, such as at higher elevations, within RHCAs, on North to Northeast aspect slopes or in hollows, and in wildlife connectivity corridors.
*Road density should be reduced to at least the Forest Plan standards and objectives for elk.
Re: Redband trout and Columbia Spotted frog: See recommended remedies below, under Forest Plan violations—INFISH.

We also listed Black Mountain sale-specific proposed resolutions to our objections regarding protection of the viability of these species in our DEIS comments. Please see our survey sheet priority drop sale units for these species, plus any additional known suitable habitat for these species in commercial logging sale units.

Other Forest Plan violations

Additional Forest Plan violations in the Black Mountain project include potential violations of Forest Plan standards by further setting back attainment of INFISH/PACFISH Riparian Management Objectives; not following management guidance for wildlife connectivity corridors; Wild and Scenic River corridors; Winter Range for elk and deer; Developed Recreation areas; and not following visual corridor management. Violation of Forest Plan standards also include not adequately protecting Northern goshawk under the Eastside Screens and potentially exceeding Forest Plan limits to detrimental impacts to soils.

Violation of the Forest Plan Eastside Screens

INFISH Violations

Our comments on potential Forest Plan violation regarding failure to demonstrate adherence to INFISH logging buffers and Riparian Management Objectives clearly state our concerns. See BMBP comments quoted and cited below:
"We are strongly opposed to any commercial logging within RHCA 'No Logging' buffers, as logging impacts usually move riparian areas further away from attaining Riparian Management Objectives (RMOs) by increasing erosion, destabilizing streambanks, destroying riparian plants, introducing excess fine sediment into the stream, and removing large wood that would otherwise stabilize slopes, create flood plain roughness as logs, and/or contribute large wood to the stream for pool formation for fish. Further these impacts degrade riparian zone wildlife habitat values such as for songbirds and elk and deer security." (BMBP Comment on DEIS p.14)
"Commercial logging within RHCAs would violate INFISH and the Ochoco Forest Plan as it would have contrary effects, setting back progress in required management 'to maintain or restore water quality, stream channel integrity, channel processes, sediment regimes, instream flows, diversity and productivity of plant communities in riparian zones, and riparian and aquatic habitats to foster unique genetic fish socks that evolved within the specific region.' (DEIS p.15)" (BMBP Comment on DEIS p.15)
"The Forest Service public relations propaganda of 'loss' to fire, insects, and disease should not be used to justify logging everywhere, including within RHCAs. Insects and disease are natural disturbance agents that should not automatically trigger planned logging. Further, RHCAs are naturally moister and generally more productive, so increased density, multistrata forest structure, and shade-tolerant tree species are not unnatural or undesirable in riparian areas, and there, in RHCAs, these conditions are less

likely to generate any epidemic insect outbreak or increased disease."
"Commercial logging is not necessary to achieve the stated objectives within the RHCAs (which we field-surveyed), as RHCAs are naturally moister, more productive, denser, and have more shade tolerant trees, so it is not clear that current conditions are not close to historic conditions. Further, any excess density from past logging and wildfire suppression would be mostly noncommercial-size small trees, which is what we discovered on the ground. Thus noncommercial size thinning and letting prescribed fire back into RHCAs should be enough to significantly reduce density, reduce shade tolerant tree regeneration, and reduce 'fuels'."
(BMBP Comments on DEIS p.53)

Our other comments supporting this objection can be found on DEIS pages 18, 24, 25, 215, 216, and 243.

Resolution

BMBP has commented on the Black Mountain project's potential violations of INFISH Riparian Management Objectives and RHCA no logging buffers. See our comments cited and quoted above.

To resolve this objection, the Forest Service needs to:
*Drop commercial logging and heavy equipment use within RHCA buffers except for conifer thinning up to 21" dbh for aspen stand recovery which retains conifers providing streambank stability and primary shading.

*Drop all re-opening of closed roads and construction of 'temporary' roads within, or adjacent to, RHCAs.
*Drop any planned heavy logging equipment stream drainage crossings.

Failing to adhere to Eastside Screens Protections for Northern goshawks

Our comments on the DEIS regarding goshawk clearly explain our rationale for this objection:
"Once again, assumed HRV acreage for goshawk historical reproductive habitat is used to justify logging—this time in goshawk PFAs. How can an historical range of goshawk reproductive habitat even be known? Pre-colonial conditions ae supposed to be the baseline for HRV under the Eastside screens, yet there were certainly no surveys for goshawks then, nor any detailed data concerning the locations and acreage of habitat structure suitable for goshawk, including canopy closure, large trees, proximity to water, forest type, etc."
"Table 70 HRV ranges for goshawk habitat are not credible and lack professional integrity."
"It is not a Forest Service or Forest Plan mandate to manage Northern goshawk habitat based on HRV. This is ridiculous and unusual, and clearly biased toward logging and against the species the Forest Service is mandated to protect."
(BMBP Comments on DEIS p.223)
"The use of a very speculative HRV for suitable goshawk habitat is truly astounding in its potential and likely inaccuracies. Viability for goshawk cannot be determined without population studies, including population trends, reproductive success trends, and the establishment of thresholds for viability, none of which has been done for goshawk populations on the Ochoco."
(BMBP Comments on DEIS p.227)
"We are strongly opposed to any commercial logging within Northern goshawk PFAs, as nearly every timber sale we survey ends up targeting goshawk PFAs for logging simply because the Forest Service is

targeting denser forest for logging (often based on LIDAR or aerial photographs) despite many species needing denser forest conditions, such as Northern goshawk, Pileated woodpecker, and American marten. Thus there is an increasing loss of suitable habitat for these species cumulatively over decades, threatening their viability. Further, the Forest Service seeks to circumvent the obvious intent of the Eastside Screens to protect Northern goshawk from logging by setting up nest buffers and designated Post Fledging Areas. So the Forest Service would violate the Forest Plan by degrading or eliminating habitat suitability for goshawk through commercial logging of PFAs." (BMBP Comment on DEIS p.224) Further BMBP comments supporting this objection can be found on DEIS pages 222, 223, 224, 225, 226, and 227.

Resolution

* "Drop the commercial logging in Northern goshawk designated Post-Fledging Areas over 125 acres in alternative 2 and 119 acres in alternative 3." (From our typed DEIS Comment summary, p.3)
* "Drop most commercial logging in the 3,568 acres of identified N. goshawk habitat—especially in LOS stands (so this request overlaps with our requested remedy for LOS) and within goshawk PFAs."
* "Don't implement prescribed burning in goshawk PFAs or nest stands during the Spring reproductive season."
* "Keep NCTing (noncommercial thinning) away from recently active goshawk nest sites—i.e. within the last 5 years. Limit NCTing to only up to a quarter of the PFA, away from the nest site." (The last three remedies are from BMBP Comments on DEIS p.225.)
* "Drop the 'temporary' road construction within the Peterson Creek PFA, as this could be enough to drive away a nesting pair of goshawks." (BMBP Comment on DEIS p.226)

Forest Plan Management Area Guidance Violations

Re: Violation of Wildlife Connectivity Corridor Management Goals

We are strongly opposed to commercial logging and excessive "non-commercial" size thinning in wildlife connectivity corridors. We want the Forest Service to drop all commercial logging and limit non-commercial thinning in connectivity corridors, as it defeats the purpose of leaving denser areas to allow for movement of old growth-associated wildlife species, as well as native ungulates using these areas as security cover, and to provide greater habitat security in these areas compared to intensively managed stands outside these corridors.

Our comments regarding violation of wildlife connectivity corridor management goals can be found below. We also expressed concern regarding provision of sufficient deer and elk security cover, such as is often provided by wildlife connectivity corridors. For example:
"We are opposed to commercial logging in wildlife connectivity corridors as these are more important than ever under climate change."
"The midpoint of the 'management zone' for tree retention in wildlife connectivity corridors would only leave 62.5%, not the 66%+ of 'full stocking' the DEIS finds necessary to meet the Eastside Screens/Forest Plan standard for wildlife connectivity corridors. (See DEIS p.228) Retaining additional understory noncommercial size trees is required under the standard, but do not contribute to the required canopy closure 'within the top one-third of site potential.' This means that the Forest Service would be violating the Forest Plan by logging to an arbitrary midpoint of a 'management zone' (which is not

legally required) rather than to the designated top one-third of site potential."
"Since wildlife connectivity corridors are intended under the Forest Plan to be 'managed at higher tree densities and canopy cover than adjacent areas to provide more security for dispersal and movement' (DEIS p.228), they should not be managed based on 'stocking' management zones applied to adjacent General Forest MA stands down to very low basal areas and low canopy closure. Likewise, as acknowledged in the DEIS (p.228), connectivity stands should have 'a high degree of ground level vegetation' to 'provide additional screening and security cover for old growth associated species as well as for wide ranging carnivores."
(BMBP Comments on DEIS p. 228)
See also our additional comments supporting this objection on DEIS pages 216, 229, and 230.

Resolution:

BMBP has commented on the potential Forest Plan violation of not following management area intent regarding Wildlife Connectivity Corridors. See our comments cited and quoted above.

*Drop all planned commercial logging and limit non-commercial thinning to only the densest areas (that appear due to wildfire suppression) in mapped or identified wildlife Connectivity Corridors.
*"Drop the 164 acres (alt. 2) or 160 acres (alt. 3) of commercial logging within wildlife connectivity corridors, as under extreme climate change, these corridors would be what is available to wildlife species dispersing to find more suitable habitat in higher elevations or further North as droughts dry up more low elevation or southern habitat and wild fire intensity increases. Being able to disperse to more suitable habitat is critical to species surviving climate change." (BMBP Comment on DEIS p.230)

Failure to follow management guidance for Wild and Scenic Rivers

Wild and Scenic River corridors are intended to be protected buffers to prevent impacts to the wild and scenic values of the river or creek, in this case, Crooked River. Logging and associated skid trails, stumps, erosion, soil and plant disturbance, and access road construction qualify as impacts to wild and scenic values, as well as recreational values, in a Wild and Scenic River corridor and should not be allowed there.

Our comments specific to this objection:
"Commercial logging would not meet the Wild and Scenic River goal for a recreational river segment of protecting and enhancing public use and enjoyment of the river segment. [See DEIS p.13] Commercial logging detracts from recreational values. Recreationists do not come out to the Forest to enjoy stumps, slash piles, skid trails, and logging roads. These all detract from the scenic and recreational values of camping, hiking, horseback riding, cross country skiing, etc."
(BMBP Comment on DEIS p.13)

Resolution:

*Drop commercial-size logging and heavy equipment use within the 300-foot RHCA buffer for the Crooked River. Any thinning should be of only small trees (e.g. up to 9" dbh) and by hand only, being careful to avoid impacts to the wild and scenic and recreational values of the Crooked River.

Logging within Developed Recreation sites does not meet the Forest Plan MA requirement

Our comment states the rationale for this objection:
"Commercial logging within developed recreation sites does not meet the Forest Plan requirement that 'timber activities will normally not be visually evident.' (See DEIS p.13)" (BMBP Comment on DEIS p.13)

The purpose and need for commercial logging in the Black Mountain sale does not include safety and visual enhancement specific to the developed recreation areas.
See below for our suggested resolution for these Forest Plan violations of Management Area standards and guidelines.

Logging within Visual Management Corridors does not meet the Forest Plan MA (Management Area) requirement

Our comment explains our objection position:
"Commercial logging within visual management corridors does not meet Forest Plan requirements 'to maintain the natural appearing character of the Forest along major travel routes' or to keep management activities 'usually not evident' or 'visually subordinate to the surrounding landscape.' (See DEIS p.14)" (BMBP Comment on DEIS p.14)

Logging within elk and deer Winter Range would not meet the Forest Plan Management Area requirement

Our comment for this objection:
"Logging thermal and hiding cover in winter range does not have 'beneficial results for habitat' as required by the Forest Plan." (BMBP Comment on DEIS p.13) This is especially true as winter range generally has low amounts of cover for elk and deer, as these are lower elevation, drier forest areas with patchy forest cover. Yet the Forest Service keeps commercially logging in winter range in successive timber sales even though thermal cover is generally low and even hiding cover may be very fragmented. Such logging is in defiance of the intent of the Forest Plan Management Area wording to maintain viable winter range habitat for elk and deer, which includes thermal cover for protection from winter storms.

Resolution for Management Area Standard and Guideline Violations

"Drop all commercial logging within the 18 acres of developed recreation, the 35 acres of winter range, and the 407 acres of North Fork Crooked River Recreation Corridor. Non-commercial thinning and controlled prescribed burning could be used instead." (BMBP Comment suggesting resolution on DEIS p.14)

Road Concerns regarding "temporary" road construction and re-opening of many miles of currently closed roads:

Our comments regarding impacts to wildlife species sensitive to disturbance explain our position: See also our comments regarding deer and elk security concerns.
"The Forest Service should drop commercial logging or other management requiring open roads wherever this would cause construction of new 'temporary' roads or the re-opening of roads not currently maintained for administrative use. The Forest Service already has far more road mileage of open roads than the agency can afford to maintain. There are lots of sound reasons for closing and decommissioning

roads, but no ecologically sound reasons for opening currently closed roads or constructing new roads."
"What is the nature of the 'existing disturbance' on which 23.4 miles of 'temporary' roads would be constructed? We are opposed to re-opening past 'temporary' roads for re-use, as this creates de facto new system roads and misleads the public as to the 'temporary' status of the roads."
(BMBP Comments on DEIS p.20)
"'Temporary' roads, even when closed later, open access to cattle, invasive plants, illegal ATV use, illegal firewood cutting, and fur trapping. Since the Forest Service already has far too many roads, we oppose 'temporary' roads."
"'Temporary' roads are often becoming de facto new system roads as the Forest Service fails to decommission them as promised and/or reuses them with the next timber sale in the area as an 'existing disturbance.'"
(BMBP Comments on DEIS p.22)

Resolution

BMBP has commented on our concerns re: 'temporary' road construction and the re-opening of miles of currently closed roads. See our comments cited and quoted above. Many of our suggested resolution remedies are already requested under the heading of other issues, such as ESA—re: Gray wolf, potential Clean Water Act violations, and under NFMA—MIS viability.

*Drop the re-opening of closed roads that were closed for ecological protection reasons, such as hydrological connections, soil erosion, and wildlife disturbance, as well as closed roads that have already grown over, or would require reconstruction.
*Drop re-opening of closed roads and 'temporary' road-building in, or adjacent to RHCAs.
*Drop all 'temporary' road construction.
*Decommission fully all roads within RHCAs except for major roads not causing ecological damage.
*Reduce overall road density to less than Forest Plan standards, based on best available science.

Potential Violation of Snag Density Requirements

Our comments explain our concerns: See our snag density and abundance related comments under NFMA MIS species viability above. Our comments also mentioned concern over the elimination of future large snags by logging large hazard trees and too many existing mature trees re: Pileated woodpecker, Northern Flicker, and Northern goshawk.
"It's revealing that Figure 9 tables use the 50% tolerance level for woodpecker species to compare with historic reference and current conditions when using the 80% tolerance level would show a higher level of protection for the woodpecker species and 50% TL downplays the difference."
"50% tolerance levels mean that half of those woodpeckers selected for higher numbers of snags, so that could mean sacrificing 50% of the woodpeckers of each species if snag abundance was brought down to the 50% TL level, although DecAID should not be used to determine species viability."
(BMBP Comments on DEIS p.194)
See also our comments on snag density requirements for Primary Cavity Excavating woodpecker species under NFMA—MIS species viability, above, which also pertain to this objection.

Resolution:

BMBP has commented on our objection that the Black Mountain Project proposed actions could lead

to a significant reduction in existing and future snag density and abundance in potential violation of Forest Plan standards.

Resolution to our objection regarding snag density includes the following modifications to the Black Mountain project:

*Increase the lowest basal area in the variable density retention range to be at least 80 square feet of basal area in dry Ponderosa pine forest and at least 100 square feet of basal area in the mixed conifer stands, with higher average basal areas to allow for more natural rates of mortality over time to create snags and down wood into the future.

*Reduce the scale of commercial logging and snag reduction overall by dropping best wildlife habitat sale units based on our survey sheets, including moister mixed conifer habitat suitable for Pileated woodpecker and American marten, and stands with abundant snags currently suitable for Primary Cavity Excavating woodpeckers. Small diameter non-commercial thinning up to 9" dbh could usually still be done in these stands without harming the woodpecker species.

*Reduce planned re-opening of closed roads as suggested above under Road Density to reduce the amount of hazard tree felling involved and prevent future increased illegal snag felling for firewood.

*Drop the construction of 'temporary' roads, as these provide access for illegal snag felling for firewood as well as increasing project-associated hazard tree snag felling.

*Buffer and protect existing large snags and pockets of abundant snags from logging.

Potential Violation of Soil Protection Standards

Our comments explain our objection:

"Given that the effectiveness of tillage (subsoiling) is admitted to be only about 70% for a single pass, further degrading soil integrity through detrimental soil impacts on the 265 sale units (6,852.5 acres) in the 20-29% detrimental soil impact class and on the 1 unit of 22 acres in the 30-39% detrimental soil impact class would violate the Forest Plan soil standard of limiting detrimental soil impacts to only 20% of an area. Accordingly all of these sale units should be changed to either noncommercial thinning by hand and/or prescribed burning or dropped altogether to avoid violating Forest Plan standards for detrimental soil impacts. Table 26 on DEIS p.88 admits that these higher percentages of detrimental soil impacts would persist after implementation of BMPs [Best Management Practices], RPMs [Resource Protection Measures], and soil tillage. Also see the admission on DEIS p.88 that 239 sale units (6,477 acres) and 26 sale units (376 acres) would remain above the 20% threshold, and thus violate the Forest Plan standard. This is equivalent to 265 sale units out of the 266 in Table 26, covering 6,853 acres above the 20% threshold, so very close to Table 26 totals."

"Actually newly constructed 'temporary' roads should be included in the cumulative effects analysis for soil impacts, as these 'temporary' roads may not be all fully decommissioned and could have long-term detrimental soil impacts." (BMBP Comments on DEIS p.88)

We also commented on detrimental soil impacts on DEIS p.24.

Resolution

BMBP has commented on our objection that the Black Mountain Project as proposed could violate Forest Plan soil protection standards. See our comments quoted and cited above.

To resolve this objection, the Forest Service needs to do the following:

*Drop sale units which are acknowledged to have already high degrees of detrimental soil impacts or sensitive soils likely to lead to violation of Forest Plan standards for soil protection with proposed management.

*Drop logging of any slopes greater than 35% to reduce potential erosion, loss of soil integrity, and potential sedimentation of creeks, if adjacent.
*Drop any sale units or parts of sale units unlikely to meet Forest Plan standards for detrimental soil standards without further mitigation, as mitigation is unlikely to be 100% effective.

Undeveloped Lands

Blue Mountains Biodiversity Project has long-standing concerns over the logging and roading of undeveloped lands, which are some of the last strongholds for wildlife and unimpeded natural ecological processes to occur outside of roadless areas and Wilderness Areas. While we did not identify this as a significant issue through our reading of the DEIS and our field surveying of the Black Mountain sale units, we request consideration of the following:

*Please clearly identify the location and size of any undeveloped lands identified by the Forest Service so that we can evaluate which areas are artifacts of the GIS system not recording early past logging, and which have likely never been roaded or logged.
* Drop any logging in undeveloped lands. We are strongly opposed to any logging or other development in such rare relatively pristine areas, which serve as scientific reference conditions, undisturbed wildlife habitat, fish strongholds, and primitive recreation areas
* We are opposed to converting unmanaged lands to managed lands wherever they exist.

III. The Black Mountain Project Would Violate the Endangered Species Act

We are very concerned that the Forest Service is not adhering to the intent and management guidance of the Endangered Species Act. We are concerned regarding Forest Service disregard for the need to maintain sufficient suitable habitat and conditions to prevent a trend toward federal uplisting for Threatened-listed Gray wolf; Sensitive-listed Columbia Spotted frog and Redband trout; Vulnerable-ranked American marten; Sensitive-listed Pacific fisher and Wolverine; Sensitive-listed plant species; and Northern goshawk, which is cumulatively threatened by the ever escalating scale and pace of heavy logging based on density reduction. All of these species have known active or potential suitable habitat in the Black Mountain project area that is potentially threatened by Black Mountain Draft Record of Decision management plans.

Our comments explain our concerns regarding violation of the Endangered Species Act through degradation or elimination of suitable and core habitat setting back species recovery, threatening loss of population viability, or otherwise contributing to a federal uplisting trend for the species:

Comments re: Threatened-listed Gray wolf:
"So the Ochoco National Forest is 'not considered' occupied by wolves based on no population study or wolf surveys or camera sets or fur sets on the ground. So it is really not known if the Ochoco National Forest is currently occupied by wolves, since not all wolves in Oregon are radio-collared." (BMBP Comment on DEIS p.164)
"Even dispersing wolves need to be able to forage and have security from humans who would shoot or trap them, so as to perpetuate the species' recovery through dispersal for genetic diversity in the packs." (BMBP Comment on DEIS p.163)
"As elk and deer are the primary prey for Gray wolves and 'Effects to elk and mule deer from the Black Mountain project would result in a negative trend in habitat' (DEIS p.164, last par.), we are concerned

that too much logging of thermal and hiding cover for deer and elk would also negatively affect the viability of recovering resident or transitory dispersing wolves in the Black Mountain project area."
"However both alternatives 2 and 3 propose to construct new 'temporary' roads and re-open closed roads that would otherwise limit human disturbance to both wolves and their prey species." (BMBP Comments on DEIS p.164)
"There are obvious problems with the DEIS rationales for no adverse impacts to Gray wolves as: Gray wolves are known to disperse through the Ochoco, so this is a known area of wolf activity; security habitat would likely be reduced for wolves overall due to loss of cover for elk and deer and increased human disturbance from new 'temporary' roads and re-opened closed roads; and there are significant foreseeable negative effects to Gray wolves from displacing them (along with their elk and deer prey) to adjacent private lands—i.e. higher risk of wolves predating on livestock and thus higher risk of wolves being killed. The wolves are likely to be adversely affected." (BMBP Comment on DEIS p.166)
Other BMBP comments re: Gray wolves include more comments on DEIS pages 163 and 164.

Comments re: Threatened Canada lynx:
"Actually, at the time initial consultation took place regarding Lynx Analysis Units, there was at least one lynx analysis unit on the Ochoco....The decision to reverse this designation was clearly political, which was confirmed to me by someone who was a staff person for USFWS at the time. Further, there have been at least two official agency sightings of lynx on the Ochoco, and BMBP has experienced two unofficial lynx sightings on the Ochoco NF [one in the Deep sale area around 1993 and one less certain sighting in the Black Mountain sale area in 2017.] The Lynx Analysis Unit debacle is a good example of how judging a species' existence by habitat alone can be politically biased and inaccurate—insufficient to determine viability." (BMBP Comments on DEIS p.162)
An additional BMBP comment on Canada lynx can be found on DEIS p.163.

Comments re: Sensitive wolverine:
"The Black Mountain project would also re-open closed roads and construct 'temporary' roads, increasing access to any potential wolverines in the Black Mountain area by fur trappers and hunters, yet this doesn't seem to have been considered in the DEIS analysis."
"Further, the Forest Service failure to orient projects to slowing climate change, rather than exacerbating climate change, directly contributes to cumulative impacts to wolverine reproductive success (re: the snow not being deep or persistent enough for natal denning security and thermal protection.) Thus by not protecting forest carbon sequestration and reducing timber sale CO2 emissions, the Forest Service is contributing to an upward trend toward federal uplisting for the wolverine."
"With wolverine, it is not so certain that a decision that 'may impact individuals' would 'not likely contribute to a trend toward federal listing or loss of viability to the population" as wolverine are so rare that the loss of one individual could end a population."
(BMBP Comments on DEIS p.167)

Comments re: Northern goshawk:

See BMBP comments re: Northern goshawk under NFMA—MIS viability, above and under Forest Plan violations—Eastside Screens, above.

Comments re: Sensitive-listed plant species:
"This is a ridiculous rubber-stamping of timber sale effects to Sensitive plant species in Table 4. For instance, Sensitive plant species in riparian habitats will not benefit in the long term from heavy

equipment and felled tree crushing, ground disturbance, disrupted hydrology, and the introduction of invasive exotic plants, all associated with the commercial logging planned for RHCAs under Alt. 2. Such impacts could immediately reduce or extirpate Sensitive plant populations. Likewise, short-term negative impacts to Peck's Mariposa lily populations could render long-term habitat 'improvement' irrelevant, as the populations no longer exist in that habitat. Lithosol (so-called 'scabland' habitat) is very fragile and vulnerable to long-term degradation from logging but adapted to wildfire." (BMBP Comment on DEIS p.27)
See additional comments on Sensitive plants on DEIS pages243 and 245.

Comments relevant to contributing to a trend toward federal listing under the ESA can also be found quoted above under NFMA—MIS viability, re: MIS woodpeckers and re: American marten. Comments relevant to contributing to a trend toward federal listing for aquatic and riparian species can also be found under Forest Plan violations—INFISH re: Sensitive Redband trout and Columbia Spotted frog. Our scoping comments listed Sensitive Columbia Spotted frog and Redband trout as species of concern to us regarding potential impacts of logging and road construction. (See Scoping comments, p.2) We also listed Pacific fisher as a species of concern to us regarding potential impacts of logging and road construction in our scoping comments on p.2.

Resolution:

Blue Mountains Biodiversity Project has extensively commented on our objection regarding violations of the Endangered Species Act. See our comment quotations and citations in the paragraphs above. Some of the species addressed in this objection have remedies cited under NFMA—MIS and other species viability above, that are also applicable to the ESA violations.
Additional partial resolutions are by species below:

Re: Sensitive Redband trout and Columbia Spotted frog and Sensitive riparian plant species:
*Drop all heavy equipment use and related commercial-size logging in potential Columbia Spotted frog habitat and Redband trout habitat stream reaches and within RHCAs in general except for aspen stand restoration-related conifer thinning up to 21" dbh or less, as long as trees contributing to bank stability and primary stream shading are retained. Buffer and protect any Sensitive plants found in current or pre-implementation surveys.

Re: Gray wolf:
*Retain more good security cover (hiding and thermal) for elk and deer where there is high use by elk and deer, and through dropping sale units suitable in habitat for other density-related species, such as Northern goshawk, American marten, and Pileated woodpecker.
*Drop construction of 'temporary' roads and greatly reduce the proposed re-opening of closed roads to protect Gray wolf security during dispersal as much as possible.
*Drop logging and roading in any identified undeveloped lands.

Re: Management Indicator species— Pileated woodpecker and American marten, see resolution suggestions under NFMA MIS viability, above, for these species. See also comments regarding resolution suggestions for Northern goshawk, quoted above under Forest Plan violations—Eastside Screens.

Re: Pacific fisher:

*Drop all commercial logging of LOS stands with suitable habitat for Pacific fisher, such as old growth moister mixed conifer.
*Retain more mature Grand fir and Douglas fir wherever it would naturally occur (e.g. in moist mixed conifer, in riparian zones, on North to Northeast facing slopes, and in high elevation mixed conifer) so that more mature Grand fir and Douglas fir will survive to become suitable hollow denning trees.
*Drop all known suitable Pacific fisher habitat. (Two of us had a positive Pacific fisher sighting in broad daylight in a Wolf sale unit on the Ochoco.)

Re: Sensitive plants:

*"We appreciate the Forest Service's recent Sensitive plant surveys in the Black Mountain area but also recognize the significant incomplete and unavailable information gaps involved, which were discussed on DEIS p.242. Since most of the Sensitive plant species identified with moderate to high probability of occurrence in Table 76 occupy riparian habitat (13 out of 20), it makes sense to protect them by not commercially logging in their habitat (within RHCAs) and avoiding heavy equipment use within RHCAs for large wood placement within or adjacent to potential habitat for these species....Other Sensitive plant habitat that should be buffered or otherwise avoided by logging and heavy equipment use includes all lithosol habitat ("sagebrush scablands"), which would protect most of the remaining Sensitive plant species with moderate to high probability of occurrence, including Henderson's ricegrass, Wallowa needlegrass, Cusick's buckwheat, and Ochoco Lomatium. We are also asking for forest habitat [logging] to be dropped re: Toothed wintergreen." (BMBP Comment on DEIS p.243)

*"Fortunately recent Sensitive plant surveys were done for Henderson's needlegrass, Peck's Mariposa lily, Crenulate moonwort, Toothed wintergreen, and Deschutes Milkvetch, so known existing populations of these species can be buffered (and flagged) to avoid management impacts. The remaining Sensitive plant species prioritized...depend on rock cliffs less likely to be affected (Cleaving moss and Fee's lip fern.)"

IV. The Black Mountain Project Would Violate the Clean Water Act

Examples of our comments regarding water quality and potential violations of the Clean Water Act:
"We are concerned that logging within RHCAs would violate INFISH, especially with regard to attainment of Riparian Management Objectives, and the Clean Water Act with regard to stream temperature standards, bank stability, large wood recruitment over time, and sediment, and/or by further exacerbating water quality criteria impacts for which 303 (d) streams were listed or by violating subsequent TMDLs and Water Quality plans." (Scoping comments, pp. 2 and 3)

Other BMBP comments re: potential violations of the Clean Water Act include:
"There is no explanation given here to justify the assumption that a 62-76% increase in sediment delivery in the 'short term' would somehow translate to a 48% long-term decrease from the existing condition. A 62-76% increase in sediment delivery seems like a significant increase that would not decrease readily to 48% unless 'long-term' is an exceedingly long term or natural recovery is typically that great." (BMBP Comment on DEIS p.24)

Resolution

*Drop planned commercial size logging and heavy equipment use in the RHCAs, except for aspen stand restoration-related conifer thinning up to 21" dbh which retains all conifers contributing to stream bank stability or primary shading of a stream.
*Drop all re-opening of closed roads and construction of 'temporary' roads within, or adjacent to, RHCAs.
*Drop any planned logging equipment stream crossings.

Inadequate Analysis and Mitigation Regarding Effects to Climate Change

Once again, the Forest Service fails to accept responsibility for their increasing contributions to climate change through the increasing scale and pace of incremental deforestation and carbon storage reduction through repeated timber sales at an accelerated pace and scale, including the Black Mountain timber sale. See our related comments below:
"It's highly problematic that the Forest Service continues to ignore their contribution to climate change through timber sales, failing to take responsibility by greatly decreasing related CO2 emissions and retaining existing forest carbon sequestration by not logging mature forest cover, in keeping with climate change science. The Forest Service needs to start planning for climate change by protecting more forest habitat, associated retention of moisture and creek and river flows, and providing for habitat security for wildlife dispersal to suitable habitat as extreme climate change renders existing habitat unsuitable. Commercial logging is contrary to all of these objectives." (BMBP DEIS Comment summary, p.1)
"Although the Forest Service never seems to be taking climate change seriously in their planning documents (e.g. for timber sales and livestock grazing) and don't even mention the 6th mass extinction, both of these global crisis situations for wildlife biodiversity are very real and ongoing. As many as 50% of all species may be extinct by 2100, with 10% as the minimal end of the range in the science. Yet the Forest Service seems committed to logging the world as we know it to oblivion. Most or all mature forest cover needs to be retained for carbon sequestration and moisture retention. Given that, our requests are a minimum of what needs to be changed."
(BMBP Comment on DEIS p.230)

Resolution

BMBP has often commented regarding Forest Service failure to acknowledge and mitigate their contributions to catastrophic climate change through their increased intensity and scale of commercial logging to unsustainable levels in multiple large timber sales, including the Black Mountain project.

To resolve this problem, the Forest Service needs to make the following modifications to the Black Mountain project, as suggested in other proposed resolution remedies above:
* Significantly decrease the geographic scale of the Black Mountain project commercial logging of mature trees.
* Significantly decrease the intensity of planned commercial logging by leaving higher minimum and average basal area per acre.
* Retain all large tree structure, including snags, down wood, and large live conifer trees in all aspen stands (equal to or greater than 21" dbh) to retain the most significant existing carbon storage and increase the biodiversity of the aspen stands.
* Retain more mature trees to sequester carbon and become large trees by dropping the best wildlife habitat from logging as per our survey sheet recommendations.

*Retain more soil sequestration of carbon by dropping logging in sensitive soil areas and in sale units that would exceed Forest Plan detrimental soil impact standards, as specified above.

Thank you for your consideration of these objections. We look forward to meeting with you to work on a resolution to our concerns. Many other remedies for resolution were suggested throughout our comments.

Sincerely,

Karen L. Coulter, Director, Blue Mountains Biodiversity Project
[redacted]