

to glyphosate application that will accomplish her objectives.

Therefore, the final EA violates **40 CFR 1501.2 (b)**, **40 CFR 1502.16(a) and (b)**, and **40 CFR 1508.8(b)** because Chapter 3 omits important environmental effect disclosures.

Keep in mind **40 CFR 1508.3** defines “Affecting” to mean the action “will or may (emphasis added) have an effect on” the human environment. An adverse effect need not be certain to qualify for Chapter 3 disclosures ... just possible according to “best science.” Also **40 CFR 1508.8(b)** defines effects as being ecological and “aesthetic, historic, cultural, economic, social, or health.” Since herbicides containing glyphosate clearly will or may , adversely affect health, these possible effects on health **must be** (emphasis added) discussed in Chapter 3. Unfortunately, the Responsible Official chose to omit this discussion.

The final EA also violates the **Apr. 21, 1997 Executive Order No. 13045** because the Responsible Official does not ensure that this project will not disproportionately expose children to environmental health risks and safety risks.

The draft FONSI violates **40 CFR §1508.27(b)(2)** because the intensity discussion fails to discuss the degree to which the proposed action affects public health or safety. The selected alternative will apply herbicides containing glyphosate. Recent research conclusions by many independent scientists link glyphosate exposure to the following health issues. Some are potentially lethal.

- birth defects,
- non-Hodgkin’s lymphoma (a form of cancer),
- mitochondrial damage,
- cell asphyxia,
- miscarriages,
- attention deficit disorder,
- endocrine disruption,
- DNA damage,
- skin tumors,
- thyroid damage,
- hairy cell leukemia (another cancer),
- Parkinson disease,
- premature births,
- decrease in the sperm count,
- harm to the immune system in fish
- death of liver cells,
- severe reproductive system disruptions
- and chromosomal damage.

This wasn't done.

Therefore, the final NEPA document violates:

- The **Clean Water Act** requires federal official to secure National Pollutant Discharge Elimination System (NPDES) permits when federal officials create point sources for water pollution. NPDES permits have been required since 1972. This case shows some federal officials don't seek out these permits from the EPA because they know the EPA won't grant the permit. Here, the Responsible Official cares more about accumulating volume than complying with United States law.
- **40 CFR 1500.1(c)** because the ineffective proposal to use Ranger Groce's proposal to rehabilitate and close temporary roads after use will not "protect, restore, and enhance the environment."
- **40 CFR 1500.2(f)** because the ineffective proposal to use Ranger Groce's proposal to rehabilitate and close temporary roads after use will not "restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment."
- **40 CFR 1500.2(e)** because the ineffective proposal to use Ranger Groce's proposal to rehabilitate and close temporary roads after use will not "avoid or minimize adverse effects of these actions upon the quality of the human environment."
- The Responsible Official proposes to rehabilitate and close temporary roads. This violates **36 CFR 212.5(b)(2)** because this does not restore the road to a more natural state.

Using Ranger Groce's proposal to rehabilitate and close temporary roads after use does not "reestablish former drainage patterns, stabilize slopes, restore vegetation, block the entrance to the road, reestablish drainage-ways, remove unstable fills, pull back road shoulders, scatter slash on the roadbed, and completely eliminate the roadbed by restoring natural contours and slopes." **36 CFR 212.5(b)(2)** states that decommissioning actions must include "but are not limited to" the actions listed above.

How this objection point can be resolved: Assure the final NEPA document tells the public that all actions required under 36 CFR 212.5(b)(2) will be taken and also including the statement that all temporary roads that will be constructed for this project will be "completely eliminated by restoring natural contours and slopes" that existed before it was constructed. Comply with the objector's request above.

This objector's comments on the draft EA contained the following opposing views attachments:

Whoever was in charge of writing the EA was not familiar with NEPA. There is no "Response to Comments" section like every other USFS final NEPA document contains. The closest thing I could find was this:

Results of Public Involvement for North Clack Integrated Resource Project

This strange document dealt with a few public comments in general. It dealt with comments that were convenient to deal with. The IDT leader should take a basic course in NEPA before trying another EA or EIS. My major issues covered on my comments was 1) the toxic danger of glyphosate exposure, and 2) using Dr. Cohen's fine fuels removal methods to protect homes in the WUI. My comments on the draft included Opposing Views Attachments #1, #4, #8, #11 and #27. The **Results of Public Involvement for North Clack Integrated Resource Project** did not contain the words "glyphosate", "Cohen" or "attachments." Clearly, the IDT leader didn't have easy answers to my comments so he eliminated the "Response to Comments" section.

Other Mt. Hood NF NEPA documents comply with NEPA. Here are examples:

The **Rocky Restoration Project EA** contains Appendix C --- Response to Comments

Link:

https://www.fs.usda.gov/nfs/11558/www/nepa/102817_FSPLT3_4524500.pdf

The **Final Environmental Impact Statement for the Site-Specific Invasive Plant Treatments for Mt. Hood National Forest and Columbia River Gorge National Scenic Area in Oregon**, including Forest Plan Amendment #16 contains APPENDIX Z Response to Comments

Link:

https://www.fs.usda.gov/nfs/11558/www/nepa/15663_FSPLT1_015680.pdf

The **Volcanic Monitoring Stations in the Mt. Hood Wilderness EA** contains Appendix A: Response to Comments at page 119

Link: <https://www.fs.usda.gov/project/?project=46254>

Therefore, the final North Clack Project EA has violated:

40 CFR 1500.4 because it did not respond to the comments submitted by the public.

40 CFR 1500.2(e) and (f) because it did not "*identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these*

actions upon the quality of the human environment,” and did not “use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.”

40 C.F.R. § 1502.9(a) because the final NEPA document did not “respond to comments as required in part 1503 of this chapter. The agency shall discuss at appropriate points in the final statement any responsible opposing view which was not adequately discussed in the draft statement and shall indicate the agency’s response to the issues raised.”

40 C.F.R. § 1502.9(b) because the agency did not “make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action.”

42 USC § 4372(d)(4) because the final NEPA document does not promote the “advancement of scientific knowledge of the effects of actions and technology on the environment and encourage [\[1\]](#) the development of the means to prevent or reduce adverse effects that endanger the health and well-being of man.”

NEPA Sec. 101(b)(2) because the Responsible Official does not “assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;”

NEPA Sec. 101(c) because Responsible Official does not comply with the will of Congress: “The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.”

Not responding to responsible opposing views is also inconsistent with court precedent:

In ***Sierra Club v. Eubanks*** 335 F. Supp. 2d 1070 (ED Cal. 2004), the court stated:

“credible scientific evidence that [contradicts] a proposed action must also be evaluated and considered.”

In ***Seattle Audubon Society v. Lyons*** 871 F. Supp. 1291, 1318 (W.D. Wash. 1994), the court stated:

“[the EIS] must also disclose responsible scientific opinion in opposition to the proposed action, and make a good faith, reasoned response to it.”

In ***Seattle Audubon Society v. Moseley*** 798 F. Supp. 1473 (WD Wash. 1992) , the court stated:

“[t]he agency’s explanation is insufficient under NEPA ... not because experts disagree, but because the FEIS lacks reasoned discussion of

Dick Artley (retired USFS forest planner and a person who believes the availability of undeveloped public land for his grandchildren is more important than short-term corporate profit)

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"Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has."

Margaret Mead