



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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REGIONAL
ADMINISTRATOR'S
DIVISION

Zach Peterson, Forest Planner
Nez Perce-Clearwater National Forests
Supervisor's Office
903 3rd Street
Kamiah, Idaho 83536

Dear Mr. Peterson:

The U.S. Environmental Protection Agency has reviewed the U.S. Forest Service's Draft Environmental Impact Statement for the proposed Land Management Plan Revision for the Nez Perce-Clearwater National Forests in Idaho, Clearwater, Latah, Shoshone, Benewah, Lewis, and Nez Perce counties, Idaho (EPA Project Number 14-0034-AFS; CEQ Number 20190295). Our review was conducted in accordance with our responsibilities under Section 309 of the Clean Air Act and the National Environmental Policy Act.

The DEIS documents the analysis of alternatives developed for programmatic management of over four million acres of National Forest System lands administered by the Nez Perce-Clearwater National Forests. The existing land management plans for the Forests were established in 1987 and have since been affected by new USFS policies, congressional direction, court decisions, new or updated conservation agreements and recovery plans, and new scientific findings that the proposed plan revision is currently needed. For analysis of the potential impacts from this action, the USFS considered four action alternatives and a no action. The DEIS does not currently identify the agency's preferred alternative, however, this alternative will be included in the Final EIS and Draft Record of Decision.

We recognize the challenges of managing resources on the Forests, especially when addressing multiple statutory requirements to protect resources and restore the environment. Thus, we commend the USFS for the effort to put together the proposed Land Management Plan Revision, which would serve as a guide for future development of individual plans and projects. We also note with appreciation that the document includes responses to public comments and that identification of planning criteria, significant issues, and alternative actions addressed in the NEPA document considered inputs received from the public and issues we raised during the scoping period in April 2014.

Our review finds that the DEIS includes an adequate description of resources within the decision area, analysis of anticipated environmental impacts, and measures to offset the impacts, including best management practices. We support the USFS commitments to continue to identify priority watersheds for restoration and maintenance and to develop a monitoring plan to track the effectiveness of implementation of the approved Revised Forest Plan. In addition, we are pleased to note that the USFS would conduct separate NEPA analysis for individual land use and resource management plans and projects tiered to the approved Revised Plan/EIS and that could involve potentially significant impacts to resources within the Forests. Because of the Revised Forest Plan's potential impacts to a variety of resources in the decision area over its lifespan (up to 30 years), we recommend that the USFS coordinate with other federal and state agencies, affected tribes, and other impacted entities, particularly adjacent landowners to the Forests, to ensure that the approved Revised Forest Plan is implemented in a manner

protective of human health and the environment. Further, we encourage the USFS to include in the Final EIS additional clarifying or missing information on topics in our attached detailed comments.

Thank you for providing this opportunity to comment. If you have questions about our review, please contact Theogene Mbabaliye of my staff at (206) 553-6322 or at mbabaliye.theogene@epa.gov, or you may contact me at (206) 553-6387 or by email at baca.andrew@epa.gov.

Sincerely,

Andrew J. Baca
Director

**U.S. Environmental Protection Agency Detailed Comments on the
Draft Environmental Impact Statement for the proposed
Land Management Plan Revision for the
Nez Perce-Clearwater National Forests, Idaho**

Potential impacts to water resources, quality and beneficial uses

General comments and recommendations

Given our water quality responsibilities, we appreciate that the 2019 Draft Revised Forest Plan's water and aquatic resources objectives (FW-OB-WTR-01, 02, 03, 04) represent an improvement relative to the 2014 Proposed Action. We remain interested in the Forests' view on the level of restoration that would be needed to meet the Forest Service's overarching aim to have, "...watersheds located on National Forests and Grasslands to be in good condition and functioning as they should."¹ At this point, we are uncertain of the Forests' ability to meet objective FW-OBJ-WTR-01 under any of the proposed alternatives.

We recommend the Final EIS clarify how the Forests intend to accelerate their watershed restoration pace by 3-7 times over the next 15 years to meet Objective FW-OBJ-WTR-01 under any alternative. This objective varies from 10 priority watersheds in alternative Z to 20 priority watersheds in alternative X, all of which would be accomplished within 15 years. The ability to meet these objectives is understandably dependent on investments of funding and resources. The DEIS indicates that "...the rate of watershed and aquatic restoration would increase under all the action alternatives when compared to the No Action Alternative."² A review of recent financial investments by these Forests in priority watersheds shows that it took \$1.5 million of Forest Service funding over 10 years to complete restoration in only 3 priority watersheds: Fishing, Upper Newsome and Meadow Creeks. Another \$3.5 million was contributed by partners to complete those watersheds. A comparison of that funding level to the Watershed Restoration Action Plans currently being pursued signals a dramatic shift is needed to complete the current priority watersheds. According to the USDA Forest Service Watershed Condition and Prioritization Interactive Map, over \$16 million of Forest Service funding would be needed to complete the 3 current priority watersheds of Upper Elk, Upper Clear and Upper Little Slate Creek.³

The EPA also recommends that the Final EIS clearly explains how aquatic restoration needs will be addressed, particularly in areas where timber harvest would require new road construction across or near waterbodies. The 2019 Draft Revised Forest Plan describes several strategies for watershed restoration, including the Watershed Condition Framework and the Restoration Action Strategy, but it remains unclear how the forest will identify priority watersheds in the future, nor is it clear if the forest will continue to pursue restoration of aquatic resources in watersheds without timber harvest opportunities. The DEIS indicates that "watershed restoration may tend to be prioritized and directed by more commodity-based resource decisions, such as restoration associated with timber harvest activities and integrated vegetation restoration projects."⁴ In our phone conversation on February 28, 2020, we recall that the ability to execute restoration work is dependent on timber revenue. The EPA applauds using

¹ DEIS, p. 3.2.2.1-19

² DEIS, p. 3.2.2.1-23

³ <https://apps.fs.usda.gov/wcatt>, Accessed April 13, 2020

⁴ DEIS, p. 3.2.2.1-19

timber revenue to pay for needed aquatic restoration, because restoration projects often require creative funding solutions from multiple sources. However, there are locations where aquatic restoration work is needed that may not be suitable for timber harvest. Specifically, water resources that are documented as impaired and in need of active restoration may not be located in areas where timber harvest is planned, nor may it be suitable to pursue timber harvest in areas without causing further degradation of water quality over both the short and long term. It is also possible that areas in need of aquatic restoration may become neglected and be further degraded, if maintenance work is not continued in areas where timber harvest is not suitable.

Drinking water supplies

The EPA appreciates the 2019 Draft Revised Forest Plan recognizing that people are directly dependent on effective NFS land management to provide them with ecosystem services in the form of safe drinking water. The plan components associated with municipal watersheds and source water protection areas established in accordance with the Safe Drinking Water Act are well-founded, yet we have some recommended edits for the DEIS and the plan content.

To improve water quality for public use, the Nez Perce-Clearwater proposed desired condition FW-DC-MWTR-01 that states lands that contribute to municipal watersheds and source water protection areas are desired to be in a condition that contributes to consistent delivery of clean water and meets the supply need of users. While we support the forest in their continuing efforts to provide clean water for users both on and off the forest, the phrase “meets the supply need of users” seems problematic, since the forest is not in a position to control the amount of water available from natural sources such as springs or precipitation. The EPA recommends removing this phrase from the FW-DC-MWTR-01 desired condition statement.

Appendix 6 of the 2019 Draft Revised Forest Plan provides an excellent snapshot of source water protection areas that intersect with the Nez Perce-Clearwater at this time, but additional information is needed to describe the ecosystem services provided by the forest and the human populations that would be affected by management in these areas. Tables 5 and 6 of Appendix 6 in the Revised Forest Plan should be updated to include the populations served by these public water systems, and these populations should be presented in the EIS to demonstrate the current number of people who directly depend on the ecosystem services of safe drinking water provided by NFS land management. In addition, a review of Idaho Department of Environmental Quality records indicates that a revision is needed to Table 5 in Appendix 6 of the Plan, which is that the City of Pierce (public water system number 2180027) obtains their drinking water from Cannel Creek and Orofino Creek, rather than from the Clearwater River.

Additionally, the proposed standard FW-STD-MWTR-01 would help ensure safe drinking water in areas where source water protection plans or municipal watershed agreements have been established, but only where source water protection plans have been formally developed. Most source water protection areas have only been assessed for potential sources of drinking water contamination. Although numerous source water areas overlap with the forest, it is unclear how many of them have developed source water protection plans and which of those plans have been certified by the state. We recommend the Final EIS disclose the existing plans that the state has certified, like that of Elk City. According to IDEQ, Elk City also has a state-certified source water protection plan believed to be called the “Elk City Water and Sewer Source Water Protection Plan,” which may be the document that the DEIS calls the “municipal

watershed protection plan.”^{5,6} Please also note that the DEIS contains a typo on page 3.2.2.1-24 where it provides the text of the standard FW-STD-MWTR-01 next to the number of the desired condition FW-DC-MWTR-01.

The DEIS analysis could also be improved by describing the protections that are expected in municipal watersheds and source water protection areas under the 2019 Draft Revised Forest Plan. Describing how much of the watershed is under the NFS control would also be helpful to disclose, such as how the Elk City Water District’s municipal watershed includes approximately 7,326 acres of NFS lands. Disclosing these kinds of additional information in the plan and DEIS would help illustrate how drinking water will be protected in these areas under the Action Alternatives.

Although Section 3.2.2.1 of the DEIS accurately describes the 1996 amendments to the Safe Drinking Water Act, this section inaccurately states that the act was initially established in 1977.⁷ More accurately, the Safe Drinking Water Act was enacted in 1974.

The Water Resources section of the DEIS provides a summary of relevant laws, regulations, and policy that pertains to this NEPA decision, and additional references may be helpful to disclose. Specifically, there are several water-specific requirements of the 2012 Planning Rule that are relevant to this decision and are not listed as Relevant Laws, Regulations, and Policy. The EPA suggests adding references to the requirement of 36 CFR 219.7(f)(1)(i) to identify watershed(s) that are a priority for maintenance or restoration, as well as other requirements under 36 CFR 219.8 (a)(2) and (a)(3).

Specific recommendations on protection of surface water and aquatic resources

For protection of water resources on the Forests, we also recommend that:

- The Final Revised Forest Plan/EIS include information on working with the IDEQ and Tribes affected by the Plan to assure that state and tribal water resources (quantity and quality) are protected and used judiciously throughout the life of the Revised Plan. We note that while efforts have been made to assess waterbodies for water quality on the Forests, a significant number of stream segments (1,693 miles) still require such assessment and another 1,786 miles does not currently support beneficial uses. As more assessments are conducted, please be aware that on April 04, 2019, the EPA approved Idaho’s New and Revised Human Health Water Quality Criteria for Toxics and Other Water Quality Standards Provisions, which establish goals for the State’s surface waters, including protecting sources of drinking water and helping ensure that fish from Idaho’s waters are safe to eat.⁸ We encourage the USFS to update information in the Revised Plan/EIS to reflect any new and relevant information about water quality, including Total Maximum Daily Loads, Water Quality Restoration Plans, and water quality criteria to protect beneficial uses;
- The USFS continue to coordinate with the IDEQ as existing TMDLs that affect impaired waters in the planning area are implemented and new ones are developed. It would also be important to

⁵ Personal communication with Rachael Smith, IDEQ, April 15, 2020.

⁶ DEIS, p. A6-8

⁷ DEIS, p. 3.2.2.1-1

⁸ https://www.epa.gov/sites/production/files/2019-04/documents/04042019_cover_letter_approval_of_deq_human_health_criteria_signed.pdf

indicate how the USFS plans to work collaboratively with IDEQ to ensure compliance with WQMPs that will function as the USFS's share of the TMDLs implementation;

- The Final EIS discuss the types of harvest treatments that would be pursued in riparian zones, including a range of residual densities and canopy closures by site type and anticipated timeframes for shade recovery. This is important because information in the DEIS indicates that water temperature is the most common parameter not meeting water quality standards and is influenced by the amount of shade or openings in riparian ecosystems. Because of that, the EPA supports management that emphasizes the protection and restoration of shade as well as healthy communities of riparian vegetation;
- Since sediment is also a primary cause for streams on the Forests to not meet beneficial uses and become listed as impaired by IDEQ, we recommend that the Forests focus on hydrologic connectivity in addition to road density in the prioritization of road and restoration treatments. In addition, we encourage the USFS to identify the best tools that would better predict sediment delivery to streams and determine measures to take to minimize impacts associated with increased sediment loads in streams, particularly in those that are fish-bearing or are impaired. Because roads are the primary source of excessive sediment input to streams, particularly where the roadside ditches drain near to or directly into perennial stream channels or rutting, we suggest that the GRAIP-lite model, which is specifically designed to assess the road sediment impact to streams at a broad scale and across sub-watersheds, be used to the extent possible;⁹
- Although some riparian areas on the Forests will be restored, we recommend additional protection of certain riparian areas where a significant number of stream miles are poorly functioning and where Rosgen's F and G channels are near high quality habitat(s), drinking water sources, and other sensitive resources.¹⁰ In such cases, we encourage the USFS to consider grazing exclusions to move existing resource conditions toward desired future conditions more rapidly in high value riparian areas. Active restoration should also target such areas to increase vegetation cover and improve thermal conditions of the stream channels;
- We recommend that the Final EIS include information to clarify that where discharges of biological and chemical pesticides would leave residues in waters of the United States, then a National Pollutant Discharge Elimination System permit will be obtained for the activities in compliance with Section 301(a) of the Clean Water Act.¹¹ The DEIS indicates that treatment measures to actively reduce or eliminate invasive weed populations on the Forests may include chemical herbicide applications;
- We realize that due to the fragmented nature of the USFS lands, it is necessary to coordinate and work collaboratively with other public and private landowners to manage aquatic resources and improve water quality. In addition to applying needed protection and restoration measures on USFS lands and managing multiple uses to protect and restore aquatic resources, we recommend that USFS continue to engage with local watershed councils and advisory groups in evaluating aquatic resources conditions, development of TMDLs and their implementation, and monitoring so corrective actions may be taken to meet environmental standards; and

⁹ https://www.fs.fed.us/GRAIP/downloads/pubs/IUFRO_GRAIP_Lite_Abstract.pdf

¹⁰ https://cfpub.epa.gov/watertrain/moduleFrame.cfm?parent_object_id=1199

¹¹ https://www.epa.gov/sites/production/files/2015-09/documents/pesticide_6thcircuit.pdf

- Because there are fish-bearing waterbodies on the Forests including both native species and several that are listed as endangered, threatened and sensitive under the Endangered Species Act, we recommend that:
 - The USFS continue to coordinate with the US Fish and Wildlife Service and National Marine Fisheries Service, and as appropriate, with the Idaho Department of Fish and Game to reduce risks to species and protect biota and habitat as the Revised Forest Plan is implemented; and
 - The final EIS include any additional relevant information developed as a result of coordination with these agencies, particularly outcomes of Section 7 of the ESA consultations with the Services, including any recommended measures to protect fisheries and other species.

Mining activities and related impacts

The DEIS discusses leasable, locatable, and salable minerals in the planning area and how the Revised Forest Plan would treat each under each alternative action. Please note that the EPA has interest in mineral leasing on public lands due primarily to our responsibilities under the Clean Water Act and other statutes, particularly those concerned with the permitting of discharges of wastewater from mining facilities to waters of the U.S. and cleanup of environmental contamination. Accordingly, the EPA would be interested in data on:

- Location and extent of mineral resources in the planning area;
- Past, current, and predicted level of mineral extractions;
- Past and current direct, indirect, and cumulative impacts of mining activities on the human environment;
- Potential conflicts with other resource management and uses e.g., recreation, energy development, special biota and fauna, and others;
- Applications for new and expansion of existing mineral withdrawals and their potential impacts; and
- Mitigation measures for the impacts and monitoring plans.

Potential impacts to biological resources

We recommend that the Final EIS include information on working with the USFWS, NMFS, and as appropriate, with the IDFG, including recommended measures to reduce risks and protect biota and habitat. The DEIS indicates the Revised Forest Plan may impact federally and state protected species occurring on the Forests or vicinity, such as the endangered Snake River sockeye salmon and threatened Canada Lynx, Snake River steelhead trout, and Snake River spring, summer and fall Chinook salmon. The impacts would be related to the anticipated loss and degradation of suitable habitats; increased sediment delivery to streams including fish-bearing ones, resulting in increased turbidity; higher than optimal noise levels during harvest and quarrying activities; and air quality from smoke and dust disturbances. Therefore, we encourage the USFS to include in the Final EIS information on the outcomes of Section 7 of the ESA consultations with the Services, including any recommended measures to protect fisheries and other species, as well as coordination with other agencies.