

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

NOTICE OF OBJECTION

November 30th, 2021

Shaun McKinney, Forest Supervisor
Wallowa-Whitman National Forest
1550 Dewey Ave., Ste 100
Baker City, OR 97814

From: Karen Coulter, Director,
Blue Mountains Biodiversity Project

RE: Blue Mountains Biodiversity Project's objection to the Wallowa-Whitman National Forest Patrick Vegetation Management Project Draft Decision Notice and Finding of No Significant Impact and Environmental Assessment

Dear Objection Reviewing Officer,

Blue Mountains Biodiversity Project (BMBP) hereby formally submits the following objections to the Wallowa-Whitman National Forest Patrick Vegetation Management Project (Patrick sale) Environmental Assessment and Draft Decision Notice and Finding of No Significant Impact. 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 Assessment, including field survey sheets and photographs from our surveying the affected area for weeks.

Decision Document

Patrick Vegetation Management Project Environmental Assessment and Draft Decision Notice and Finding of No Significant Impact

Date Decision published

November 4th, 2021

Responsible Official

Kendall Cikanek, District Ranger, Whitman Ranger District, Wallowa-Whitman National Forest

Description of the Project

The Wallowa-Whitman 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 Decision Notice. Alternative 2 includes:

- * Commercial harvest (HTH) [logging] on 18,639 acres outside of RHCAS
- * Group selection (HSG) [logging] on 1,916 acres
- * Defensible fuel profile zones and commercial thinning (DFPZ-HTH) on 1,241 acres

- *Aspen Restoration [conifer logging] on 33 acres
- *Pre-commercial thinning connected to harvest on 19,501 acres
- *Non-commercial thinning not connected to harvest on 10,915 acres
- *Commercial harvest (RVR) on 481 acres within the RHCAs
- *Pre-commercial thinning connected to harvest on 467 acres
- *Noncommercial thinning not connected to harvest on 3,743 acres
- Other connected management actions include:
 - *Prescribed Burning of activity fuels on 36,032 acres
 - * Road maintenance and reconstruction design criteria described in Appendix B of the EA
 - *Add 10.52 miles of inventoried non-system roads to Forest road system
 - *Minor Changes to management of specific system roads as described in the EA, Table 4 and Table 5....
 - *Temporary road construction totaling 38.5 miles
 - *Replace three culverts with aquatic organism passage structures
 - *Elk security enhancement measure: Extend the Patrick Creek Cooperative Travel Management Area (TMA) closure 3 days prior to archery season. This closure currently operates annually from 3 days prior to opening Rocky Mountain bull elk first season through the close of Rocky Mountain bull elk second season. Motorized use has become more prolific during archery season, compromising the purpose and need for the existing TMA.
 - *Retention of wildlife connectivity corridors, snags, down logs, and wildlife trees.

The Patrick Environmental Assessment also includes further detailed descriptions of the selected Alternative 2.

Proposed Project Location

“The area being evaluated is approximately 48,794 acres on National Forest System lands. The majority of the project is located in North Fork Burnt River (48,753 acres) with small portions in the Bridge Creek-Middle Fork John Day River (17 acres), Granite Creek (16 acres), Camp Creek-Middle Fork John Day River (6 acres) and Phillips Lake-Powder River (2 acres) watersheds. The project area lies approximately 3 air miles southwest of Sumpter, Oregon and approximately 21 air miles southwest of Baker City, Oregon.” (Patrick Vegetation Management Project Environmental Assessment, November 2021, p. 5)

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 Wallowa-Whitman National Forest and use and enjoy the Forest extensively for camping; hiking; hunting; fishing; general aesthetic enjoyment; gatherings; viewing flora and fauna; gathering forest products; and other purposes..

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 Wallowa-Whitman Forest Service makes a final decision on the Patrick Vegetation Management 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; failure to disclose scientific controversy; inaccurate use of the science; and use of an Environmental Assessment instead of an Environmental Impact Statement.

Violations of the National Forest Management Act (NFMA) and the Wallowa-Whitman Forest Plan, including failure to provide for population viability for multiple Management Indicator species and other wildlife species, including Pileated woodpecker, American marten, Northern goshawk and Redband trout, and violations of the Wallowa-Whitman Forest Plan.

Potential violations of the Wallowa-Whitman National Forest Plan include potential violations of management area guidance and Forest Plan standards, including Northern goshawk protections under the Eastside Screens; violations of Management Areas guidance for designated old growth, wildlife connectivity corridors, recreation areas, and visual corridors, and of Forest Plan standards for Eastside Screens INFISH requirements; road density requirements; snag density/abundance requirements; down wood retention requirements; and Forest Plan limits to detrimental impacts to soils.

Endangered Species Act potential violations include contributing to a trend toward federal uplisting for the following species: Sensitive/Threatened-listed Gray wolf; Sensitive Lewis' woodpecker; Sensitive Columbia Spotted frog; Sensitive Redband trout; and Sensitive Western Ridged mussel—all known to be or suspected to be within the project area. Proposed management actions could also contribute to federal up-listing for Threatened Canada lynx, Sensitive Pacific fisher, and Sensitive Wolverine, should these species be using the Patrick area as habitat.

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

The Forest Service could also be violating the Region 6 2005 FEIS and Record of Decision for invasive plant management.

We also express objection concerns regarding “temporary” road construction and closed road re-opening, proposed management of undeveloped lands, and potential impacts to climate stability.

BMBP objects to the Patrick Project for the following reasons:

I. The Patrick project violates the National Environmental Policy Act

The Patrick project violates the National Environmental Policy Act in the following ways: inconsistency with the stated “purpose and need” of the project; failure to prepare an Environmental Impact Statement instead of an Environmental Assessment; 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; and inaccurate use of the science.

Inconsistency with the stated purpose and need of the project

The Patrick project is not consistent with all the purpose and need goals as expressed in the Environmental Assessment. The Patrick project included the following statement that constituted the purpose and need for the Patrick project on the Environmental Assessment page 11: "...the purpose and need for action is generated by conditions within the analysis area, which have departed from the historic range of variability (HRV), creating conditions that have an increased vulnerability to uncharacteristic levels of disturbance severity... This departure away from HRV is the basis for determining the purpose and need for treatment. In order to move conditions in the planning area toward the desired condition, the following objectives have been identified.

- Increase landscape resiliency to risk of uncharacteristic disturbance by moving conditions toward HRV within upland and riparian forest types.
- Reduce threat of Wildfire to local communities within the Wildland Urban Interface (WUI)
- Increase structural complexity and species diversity of vegetation to provide habitat for a wider range of wildlife species within the project area. *Maintaining and restoring wet meadows, quaking aspen, mountain mahogany, and deciduous riparian shrubs would provide valuable wildlife habitat *Increase the amount of single-story old forest to provide habitat for sensitive species such as the White-headed Woodpecker and Flammulated Owl that are nearly absent from the project area. *Increase the amount and quality of forage, particularly in security areas where it will most benefit elk.
- Contribute to local economy and provide a supply of forest products to the public.

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 Patrick project:

DEA p. 30 and the final EA p. 29 claim that under Alternative 3, "these identified purpose and needs would only be met outside of RHCAs" due to no planned commercial logging within Riparian Habitat Conservation Areas. (emphasis ours) Our related comment written on DEA p. 30 refers to the purpose and need statements identified as not applying to RHCAs under Alternative 3:

Logging within RHCAs does not improve forest ecological health, resiliency to disturbance, or increase structural complexity and species diversity of forest plants providing a wider range of wildlife species, but has the opposite effects, contrary to the purpose and need stated for the Patrick timber sale project. (comment on DEA p. 30) We find that alternative 2's proposed commercial logging within RHCAs would be inconsistent with these identified purpose and need statements for the Patrick project.

The EA's claim that commercial logging in RHCAs is necessary for these purposes and needs to be met is outrageous, considering the large body of science that established riparian area buffers under INFISH/PACFISH in the Eastside Screens. Riparian buffers have also been established in forests not under the Eastside Screens, such as under the Aquatic Conservation Strategy in the Northwest Forest Plan, based on best available science. These riparian buffers were established to protect vulnerable riparian zones from being degraded from commercial logging and the impacts of roads. It's quite well established and evident on the ground that past logging in riparian areas has seriously degraded aquatic and riparian habitat. It's now increasingly supported by the science that commercial size logging in general harms forest ecological health, forest resiliency to disturbance, structural complexity, and species diversity of

forest plants. These negative effects are amplified in moister, more productive riparian areas with greater plant, tree species, and wildlife diversity, including riparian- and aquatic-associated species.

One comment from EA p. 37:

Why are repeated commercial logging activities now expected to have a different result from past logging regarding increasing wild fire suppression, increasing fire intensity, and stimulating denser in-growth of small, flammable young trees? This calls into question the assumed consistency of proposed actions with the stated purpose and need for the project. In general, commercial logging decreases individual tree health and vigor and forest resiliency to fire, insects, and disease.

Our comment from EA p. 52:

So the Forest Service is now abandoning HRV conformance when it is more convenient for increasing logging. Thus logging would take place to reduce density in both moist and cold forest types even though both are below the assumed HRV for density and OFSS levels would be shifted to above HRV for moist forest under both action alternatives. (See p. 52) (By the way, this is in contradiction with the very specific stated purpose and need to represent the historical range of variability.)

Some of the comments on EA p. 97 regarding inconsistency of planned management actions with the stated purpose and need for the project:

The Patrick sale would reduce, not increase, structural complexity and diversity of trees that provide habitat for wildlife. This sterilization and homogenization of the forest that the Forest Service keeps perpetuating reduces the diversity of wildlife species, such as by continuing to reduce density in naturally denser forest habitat (moist and cold mixed conifer) that is needed by density and structural complexity-associated species, such as MIS Pileated woodpecker, American marten, Rocky Mountain elk, and Northern goshawk. We do support restoration of riparian hardwoods, but commercial logging in RHCA's is not necessary to do that.

Our additional comments on inconsistency between the stated purpose and need and proposed management actions can be found written on DEA pages 16, 48, 49, 53, and 217.

Resolution

BMBP has commented on its objection to the Wallowa-Whitman National Forest's (WWNF) Patrick Draft Environmental Assessment (DEA) in comments (see quotes and citations above.) Resolution of this objection would require re-design of the Patrick project so that proposed management actions would be consistent with the stated purpose and need for the project (which should also be revised.) This would require preparation of a full Environmental Impact Statement, given the scale of the project, the intensity of management planned, and the high level of inadequacy of the analysis in the Patrick Environmental Assessment. (See our sample comments below on inadequacy of the EA's analysis for indirect, direct, and cumulative effects of planned management actions.

Failure to prepare an Environmental Impact Statement Instead of an Environmental Assessment

Throughout our comments on the Patrick timber sale project, we have referenced the extreme scale of this timber sale, the very high intensity of the logging and ground disturbance planned, and the increasingly severe impacts to the forest from the accelerated pace of timber sales, the increased landscape scale of these sales, including the Patrick sale, and the increasing intensity of commercial logging to the point of incremental deforestation. The enormous scale of the Patrick sale and the extensive management throughout the sale area to the point where “every acre” of the project area is affected by planned management according to the EA, and the great intensity of combined management methods in removing biomass and forest cover—all should have triggered preparation of a full Environmental Impact Statement instead of the virtually unprecedented use of only an Environmental Assessment (EA) instead of an Environmental Impact Statement (EIS) for a timber sale of this magnitude and intensity of management. Further, we have referred throughout our comments to the notable inadequacy of the analysis of effects to various forest values, including for wildlife species. The inadequacy of the analysis that we referenced in our comments should also have triggered the preparation of an EIS, especially regarding the very high potential for cumulative negative impacts due to the scale and intensity of proposed management and consequent overlapping effects to wildlife species, soil productivity, water quality, and other forest values.

As noted above, resolution of the inconsistency between proposed management actions and the stated purpose and need for the Patrick project alone would require preparation of an EIS.

Blue Mountains Biodiversity Project has commented on aspects of the Patrick project and the Environmental Assessment effects analysis that should require preparation of a full Environmental Impact Statement with the requisite public notification, 45 day comment period, and opportunity to file an objection and negotiate with the Forest Service over objection resolution.

A sampling of our relevant comments:

Re: pervasive inadequate analysis throughout the EA:

Constantly shifting from the project scale of analysis to the Forest scale serves to minimize the effects of proposed management to species in public perception, but not in reality, as the analysis carefully omits data on the loss of source habitat for MIS [Management Indicator Species] and other species of concern at the Forest scale. This is insufficient cumulative effects analysis of effects to goshawk, marten, Pileated woodpecker, and other species, as these species have already lost source habitat to past and ongoing logging and fuel reduction across the Wallowa-Whitman and the adjacent Malheur National Forest, yet this is not disclosed in the analysis, nor quantified on the Forest scale. (comments on DEA p. 107 with slight grammatical adjustments for typos)

NEPA specifically requires cumulative effects analysis to consider past effects, not just present and reasonably foreseeable actions, as is admitted to be the method in the Patrick analysis on EA p. 176, first par. under “Cumulative Effects”. This is a clear violation of NEPA. (comments on DEA p. 176) The same EA text occurs on the same page of the final EA, with no correction.

This is extremely inadequate cumulative effects analysis for aquatic species and their habitat. Past impacts cannot be legitimately subsumed into the existing condition along with present impacts, as this obscures the root causes of current degradation and provides no evidence or lessons for adaptive management to correct past and ongoing management mistakes. There can be

no adaptive management without disclosure of specific management practices that caused past degradation and may still be causing harm. (comments on DEA p. 176)

This Aquatics section completely fails to include the critically needed cumulative effects analysis, noting many miles (hundreds) of streams with negative impacts from prior road building within RHCAs, 26 culverts that are confirmed or suspected barriers to fish passage, high density of roads that are confirmed or suspected barriers to fish passage, high density of roads in subwatersheds, roads poorly located in draw bottom areas in fish-bearing streams, etc. but fails to analyze the combined cumulative effects of the proposed actions with existing cumulative impacts specifically for fish species, amphibians, aquatic invertebrates, and water quality parameters. This is grossly inadequate analysis for cumulative effects. There is not even any disclosure in the “Aquatics” section of which fish species, amphibians, or other aquatic species are present, at risk, or downstream, nor what their habitat requirements are and how these would be impaired, specific to the species. This is one of the worst aquatics analysis sections of an EA or an EIS I have seen in 30 years of reading FS [Forest Service] EAs and EISes. (comments on DEA p. 177) The final EA repeats the exact same cumulative effects analysis, still on pages 176-177.

Comments regarding the enormous magnitude of the sale and/or the great intensity of potential management effects:

Since the majority of the project area is in the Visual Quality Objective management area of Partial Retention, how would management of every acre of the project area, including 21,614 acres of commercial logging (or more), 43 miles of “temporary” road building, 8,802 acres of “mechanical treatment”, and 36,032 acres of prescribed burning (see Table 91, p. 209) keep management activities “visually subordinate to the characteristic visual landscape” and “not visually evident”? (EA p. 217, par. 2) Such extensive landscape scale intensive management with clearly unnatural visual effects—especially long-term effects of commercial logging—would violate VQO [Visual Quality Objective] partial retention requirements. This is the definition of over-management and unsustainable management effects, including management “activities” “across every acre of the project area”! (See EA p. 217, par. 3) The Forest Service seems to be very obsessed with the false idea that the forests would not survive without their management, constantly blocking the functioning of natural disturbances that thin and diversify the forest and provide habitat niches and ensure biodiversity. (comments on DEA p. 217)

This is outrageous that such high levels of detrimental soil impacts—6,300 or 6,295 acres and tons per acre of erosion, and heavy equipment use and road construction on areas with high to very high erosion potential or landslide potential or existing landslides would be planned and accepted! See Table 88 on EA p. 204. (comment on DEA p. 204) How does the expected outcome of thousands of acres (over 6,000) of detrimental soil impacts and tons of hillslope erosion and heavy equipment use and road building on soils with high to very high erosion potential or existing landslides meet the NFMA requirement of no irreversible damage? See EA p. 205, 1st par., and Table 88 on EA p. 204. How does all this soil damage comply with 36 CFR 219.20, which “requires conservation and protection of soil and water resources”?

Table 91 reveals an outrageously high level of ground disturbance to be proposed for one timber sale, based on both the extensive acreage affected—virtually the whole project area with 36,032 acres of prescribed burning alone, plus 21,614 acres of ground-based logging, 43 miles of “temporary” road construction, unspecified mileage of closed [road] re-opening, and pile burning over 30,416 acres!—and also based on the intensity of planned logging and so many management actions planned for highly erosive soils and dormant or active landslide terrain, which could

further transport invasive plant seed and demolish native plant cover. This timber sale needs to be either scaled down significantly or stopped entirely. (comments on DEA p. 209, with minor corrections)

In the case of each Management Indicator Species—American marten, Northern goshawk, and Pileated woodpecker, the Forest Service has planned to eliminate from 25% to 66% of source habitat in the watershed through commercial logging. This indicates the unsustainable effects to wildlife habitat and species viability of landscape scale timber sales with increasing percentages of project areas logged and logging at greater intensity. These recent timber sales across the region tend to log to very low density and basal areas, removing forest structural complexity, tree species diversity, and mature size classes of trees that would otherwise grow large and old to fulfill the functions of large and old structure lost to past logging for wildlife habitat. (comments on EA p. 111 with adjustment to shorter sentences)

Sample comments highlighting the significant scale and intensity of management effects in the Patrick timber sale that are so extreme as to foreseeably threaten the viability of Management Indicator species, which violates the National Forest Management Act:

The analysis re: MIS Primary Cavity Excavators neglects consideration of the continued reduction in overall snag abundance from so much commercial logging tree removal, combined with increased hazard tree logging, and increased access for illegal firewood cutting of snags. Cumulative effects of all the management impacts to snags need to be considered in combination for assessing the total cumulative effects of the Patrick project itself. Also the cumulative effects analysis for snags neglects consideration of the existing high deficit in snags compared to historic conditions, and makes no attempt to quantify the potential loss of future snags due to the high acreage of mature tree logging and the intensity of that logging. (comments on DEA p. 132)

We are opposed to any commercial logging, large snag removal, mistletoe felling or removal, and prescribed burning in the identified 2,198 acres of marten source habitat in the North Fork Burnt River watershed and in the Patrick project area, since the “watershed currently provides $\geq$ 40% of the median amount of source habitat that occurred historically, which is above the threshold necessary to support marten population viability (Penninger and Keown 2011).” (comment on EA p. 99)

The EA admits on p. 100 that both alternatives 2 and 3 are expected to remove marten source habitat due to decrease in canopy cover....The EA admits that: “Impacts to marten source habitat are expected to last several decades as canopy closure recovers and tree diameters increase” (EA p. 100), indicating that this would contribute to a trend toward federal up-listing for marten and potentially cause loss of viability in the project area. (comments on EA p. 100)

Drop the planned commercial logging in 6,011 acres of Alt. 2 and 5,851 acres of Alt. 3 of goshawk source habitat, as the EA admits that: “Commercial harvest treatments would likely reduce average stand diameter and/or canopy closure below suitable levels, thereby removing source habitat for the next several decades.” (DEA p. 106) Further, the EA acknowledges that: “The North Fork Burnt River watershed has a high WWI score [Weighted Watershed Index], meaning that it likely provides a significant contribution to goshawk viability on the forest.” (DEA p. 105, 3rd par.) This makes it important to protect and maintain suitable goshawk habitat in the Patrick sale area. (comments on DEA p. 106)

When proposed management actions could foreseeably extirpate Management Indicator species from the project area by reducing their suitable reproductive habitat to levels so low that the species would no longer be viable in the project area, a full Environmental Impact Statement is

needed. An EIS should be required in order to include sufficient in-depth analysis to more accurately determine long-term effects and to give the public more time to respond, with more detailed information about the issues at stake. Management Indicator species are designated with the intent that protection of their habitat would be also providing suitable and sufficient habitat for many other species with the same habitat needs. So loss of a Management Indicator species through over-management is gross negligence, as many other native Forest species would be harmed and potentially lost as well. This is a scale and intensity of foreseeable negative management effects that requires an EIS—or scrapping of the project due to its extreme repercussions to wildlife species viability on a landscape scale.

Failure to provide an adequate range of alternatives

The Patrick Environmental Assessment included an inadequate range of alternatives. Our comments were clear in recommending viable action alternatives:
From EA p. 31:

There's clearly not a full range of alternatives offered in the EA, as can be seen by the overwhelming similarities in acreage managed, [and the] same type of logging and other management, as can be seen in Table 11, except for the limited differences from Alt. 3 not commercially logging the RHCAs. There should have been alternatives that emphasized non-commercial thinning over commercial logging; better protected density and structural complexity-associated wildlife by not logging in moist mixed conifer, cold dry forest and any never logged areas; and scaled down the intensity of management in general.

The Purpose and Need for the Patrick timber sale is overly narrowly construed so as to preclude a full range of reasonable alternatives, including excluding logging within moist and cold forest types, only allowing non-commercial thinning in RHCAs, and no construction of “temporary” roads, all of which we probably suggested in our scoping comments, based on the scoping information and existing conditions we found in the field. These alternatives are still reasonable, based on the EA analysis and existing conditions. (comments on DEA p. 14)

Our other comments on an inadequate range of alternatives in the EA can be found written on DEA pages: 45 and 206.

Resolution

BMBP has commented on its objection to the WWNF's inadequate range of alternatives in the Patrick Environmental Assessment 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 all 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.

Failure to adequately analyze direct, indirect, and cumulative effects

The Patrick Environmental Assessment 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:

There is no detailed or site-specific analysis to support the EA conclusion that the quantity and quality of pools would be maintained with proposed commercial logging in RHCAs under Alt. 2.

There is no in-depth or site-specific analysis supporting the EA conclusion that there would be no change to channel and bank stability from commercial logging within RHCA buffers due to the reduced minimum no activity buffers. The EA analysis does not analyze the potential for severe storms causing increased runoff and sedimentation from logged sites upslope of streams within the RHCAs that could reach the streams. (comments on DEA p. 172)

Analysis in the Aquatics section of the EA certainly does not fully justify the conclusion that: "Project activities would not contribute to a negative trend in viability of redband trout on the Wallowa-Whitman National Forest." (DEA p. 178, top) The Aquatics section barely even mentions Redband trout, and fails to disclose its current population status in the project area and on the Forest, as well as its current or recent reproductive status in the project area, or the Redband trout's species-specific habitat needs and how they would be affected by management actions. (comments on DEA p. 178)

Without knowing the population status, rate of reproductive success, and associated viability thresholds for PETS species, the Forest Service cannot assume that there would be no trend toward federal up-listing or no loss of species or population viability in the project area for wildlife species likely or known to occupy habitat in the project area. This applies to all species listed as "known" or "potential" for having suitable habitat in the project area. There should have been analysis in the EA showing why species viability determinations were made as "No Effect", "No Impact" or "MIIH." (comments on DEA p. 181) The text in the (Final) Environmental Assessment appears to be the same as in the Draft Environmental Assessment, and on the same pages, with only a slight shift of text over page numbers.

More of our comments regarding inadequate effects analysis for direct and indirect effects can be found written on DEA pages: 56, 59, 140, 150, 175, 176, 182, 206, 214, 218, and 219.

The EA has grossly inadequate cumulative effects analysis, which is mostly confined to only an appendix Table listing present and foreseeable future impacts and subsumes all the past impacts into the present condition, thus avoiding detailed cumulative impacts analysis of the combination of past (and often still existing) impacts of past management with all the management impacts now proposed for the Patrick sale to wildlife, soils, carbon sequestration, aquatic species, water quality, riparian conditions, recreational values, indigenous people's cultural sites and uses, and to ecological processes, biodiversity, and forest resilience.

Examples of our comments on inadequate cumulative effects analysis:

Cumulative effects do not have to overlap in time and space with proposed actions. This is inadequate cumulative effects analysis. (comments on DEA p. 59) This DEA claim re-appears on the same page of the final EA with no correction, even though it is clear that there are often cumulative effects to wildlife species through loss of habitat that do not depend on the effects to the species overlapping in time or space. This is the case since many wildlife species migrate or disperse for genetic viability, but are still affected by prior management effects to suitable habitat that may be implemented in different places at different times. Causes of climate change are also a good example of cumulative effects not having to overlap in time or place to have significant effects.

The analysis also fails to recognize that, by definition, climate change (aka global warming) is caused by a combination of many relatively small emissions sources. By this point, we are facing the biggest global crisis of our time, well past multiple tipping points, and all human-caused fossil fuel emissions need to be curtailed. (comments on DEA p. 60)

This is inadequate cumulative effects analysis for combined Patrick and Austin projects' loss of marten source habitat, as it fails to consider the existing condition of far less source habitat for marten than was available historically. The marten is now being ranked as "Vulnerable" state-wide and throughout the Blue Mountains. There is now the need to protect all existing marten source habitat as well as allowing the recovery and re-growth of more potential marten habitat and connectivity habitat on a landscape scale to allow for marten recolonization and marten viability. This includes reducing fragmentation of marten habitat around core source habitat. Instead, the EA analysis quickly dismisses the cumulative impacts to marten based on marten habitat remaining "well distributed", but not enough of it and not connected well enough for recolonization and dispersal for genetic diversity. (Comments on DEA p. 101, with correction of run-on sentences)

Constantly shifting from the project scale of analysis to the Forest scale serves to minimize the effects of proposed management to species in public perception, but not in reality, as the analysis carefully omits data on the loss of source habitat for MIS [Management Indicator Species] and other species of concern at the Forest scale. This is insufficient cumulative effects analysis of effects to goshawk, marten, Pileated woodpecker, and other species, as these species have already lost source habitat to past and ongoing logging and fuel reduction across the Wallowa-Whitman and the adjacent Malheur National Forest, yet this is not disclosed in the analysis, nor quantified on the Forest scale. (comments on DEA p. 107 with slight grammatical adjustments for typos)

Cumulative effects are cumulative, and must be considered at the Forest scale as well as the project scale. The 1.4% reduction of [goshawk] source habitat from the Patrick sale on the Forest scale must be added to other source habitat losses on the Forest scale for a larger total percentage lost across the Forest. (comments on DEA p. 107) The loss of a species' source habitat from

one “project” timber sale area may not be insignificant on the Forest scale when the total loss of source habitat across the Forest is considered, as the species may already be close to the threshold for viability loss on the Forest. This is especially true for marten. (comment on DEA p. 108)

NEPA specifically requires cumulative effects analysis to consider past effects, not just present and reasonably foreseeable actions, as is admitted to be the method in the Patrick analysis on EA p. 176, first par. under “Cumulative Effects”. This is a clear violation of NEPA. (comments on DEA p. 176) The same EA text occurs on the same page of the final EA, with no correction.

More comments regarding DEA p. 176 and written on that page: Re: Appendix A of the EA: Legal precedent in NEPA cases has established that just listing activities considered for cumulative effects does not constitute sufficient cumulative effects analysis. Ranking current and foreseeable future management actions as “low”, “moderate” or “high” for “cumulative effects risk” also does not substitute for required in-depth effects analysis under NEPA. The detail involved in in-depth site- or species-specific analysis paints a picture of potential outcomes for the public, agency reviewers, and local staff that is more nuanced and meaningful than a list or ranking, and is more likely to lead to avoidance of negative effects or effective mitigation.

This is extremely inadequate cumulative effects analysis for aquatic species and their habitat. Past impacts cannot be legitimately subsumed into the existing condition along with present impacts, as this obscures the root causes of current degradation and provides no evidence or lessons for adaptive management or correct past and ongoing management mistakes. There can be no adaptive management without disclosure of specific management practices that caused past degradation and may still be causing harm. (comments on DEA p. 176)

This Aquatics section completely fails to include the critically needed cumulative effects analysis, noting many miles (hundreds) of streams with negative impacts from prior road building within RHCAs, 26 culverts that are confirmed or suspected barriers to fish passage, high density of roads that are confirmed or suspected barriers to fish passage, high density of roads in subwatersheds, roads poorly located in draw bottom areas in fish-bearing streams, etc. but fails to analyze the combined cumulative effects of the proposed actions with existing cumulative impacts specifically for fish species, amphibians, aquatic invertebrates, and water quality parameters. This is grossly inadequate analysis for cumulative effects. There is not even any disclosure in the “Aquatics” section of which fish species, amphibians, or other aquatic species are present, at risk, or downstream, nor what their habitat requirements are and how these would be impaired, specific to the species. This is one of the worst aquatics analysis sections of an EA or an EIS I have seen in 30 years of reading FS [Forest Service] EAs and EISes. (comments on DEA p. 177) The final EA repeats the exact same cumulative effects analysis, still on pages 176-177.

More of our comments on inadequate cumulative effects analysis can be found written on DEA pages: 34, 38, 44, 60, 164, 167, 207, 215, & 219. See also our numerous comments regarding inadequate cumulative effects analysis for climate change below.

Resolution:

BMBP has commented on its objection to the WWNF’s failure to adequately analyze direct, indirect, and cumulative effects of the Patrick project on a range of receptors, including potential project effects to woodpecker species; Northern goshawk; American marten; undeveloped lands;

aquatic species, including Redband trout; invasive plant introduction and dispersal; 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 EIS needs to be prepared that adequately analyzes direct and indirect effects of the Patrick 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 the full range of best available science and inaccurate use of the science

There are numerous instances in the Patrick EA 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:

Comments from EA p. 43:

Using the “seral species” concept is a disingenuous way to obscure the natural role of forest successional stages. Not all of the forest would historically have been Ponderosa pine or Western larch—dominant, as there are microclimate and elevation differences from highly varied topography that can be conducive to natural Grand fir or Douglas fir climax conditions, such as high elevation north to NE aspect slopes, proximity to riparian areas, and pockets of moisture-retaining ash soil from volcanic eruptions, all of which are more likely to support natural succession to Douglas or Grand fir dominance. It is unlikely that Ponderosa pine and Western larch would cease to exist, as climate change may portend more droughts (which gives Ponderosa pine an advantage) and more intense fires that would benefit the more fire tolerant species: Ponderosa pine, Western larch, and Douglas fir.

The “islands” of moist mixed conifer stands in the Patrick sale are naturally there, either due to fire skips in a mosaic or to higher moisture retention on the sites. Grand fir, in appropriate sites, will also form stable, long-term, large tree dominated stands, Old Forest structure, but the EA side-steps admitting this. Historically there was also variability supporting Grand fir.

Comments from EA p. 45:

How can the Forest Service possibly know the historic range of variability for Douglas fir engraver beetles? Such data was not recorded during the pre-European colonization period that is supposed to be the baseline data source [for HRV]. This [is] pseudo-science—inaccurate use of the science.

The “large percentage in Moderate susceptibility across the majority of bark beetle hosts” (trees) does not necessarily mean that “high susceptibility” is inevitable or that commercial logging is necessary for reducing tree density or bark beetle future infestations. (emphasis ours.)

The presence of dwarf mistletoe often results in spread[ing the mistletoe] from past logging. Why would planned logging have a different outcome? This discussion suggests that pruning lower mistletoe-infected branches and prescribed burning could be effectively used to reduce mistletoe without commercial logging. (See EA p. 45, par. 6)

Over and over there is admitted that there is no high epidemic level insect or disease outbreak and no high susceptibility.

The EA reads as if the site for logging was pre-determined before any analysis was done (which is usually the case) and then the analysis task is to somehow come up with rationales for pre-determined management plans—a business as usual timber sale. The rationales for “treating” Douglas fir and Western larch for mistletoe is exceedingly strained (see p. 45, last par.) as just an excuse to log those species.

Comments from EA p. 52:

Table 22 makes little sense—How would alternatives 2 and 3 increase OFMS from 15% (Alt. 1) to 20%, when the stated plans are to reduce OFMS by converting it to OFSS? (which increases from <1 % to 41 or 40%.) The same goes for Table 23 for moist forest, where there is a projected increase in OFMS from 16% to 23% even as it is logged to low density to increase OFSS from < 1% to 36 and 34% . Likewise, Table 24 shows an increase from 15% OFMS to 28% even though logging would increase OFSS from 0 to 20%. This is inaccurate and misleading use of the science.

What are the actual data sources (date, type of data, location for data) for HRV determination by Powell 2012? Likely it is very generalized and not specific to the Patrick sale area. Eastern Oregon has highly variable topography and elevation that would render most generalizations inaccurate. (comments on DEA p. 52)

So the Forest Service is now abandoning HRV conformance when it is more convenient for increasing logging. Thus logging would take place to reduce density in both moist and cold forest types even though both are below the assumed HRV for density and OFSS levels would be shifted to above HRV for moist forest under both action alternatives. (See comments on DEA p. 52)

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 DEA pages: 41, 44, 49, 51, 98, and 153.

Resolution

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

In order for the Patrick 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 EIS available for public comment for the Patrick project, to better and more accurately inform public comments, agency review, and decision-making.

Failure to Disclose Scientific Controversy

The Patrick 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.” The Patrick EA also fails to disclose science findings opposing current management toward an assumed historical range of variability from a static point in time or a range of conditions in the past. 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 Patrick EA.

Examples of our comments regarding Patrick EA failure to disclose scientific controversy include the following:

A theoretical HRV conformance goal ignores a recent Pacific Northwest Research Center study refuting the idea that management should try to mimic a static point or range in time. (comment on DEA p. 50, with the same goal stated for the purpose and need for the project in the final EA on EA p. 11, with no apparent consideration of this science)

Wildfire is continually used throughout the Patrick EA as a boogeyman to scare the public into being biased against the No Action alternative, based on fear of potential wildfire severity—which could just as easily happen after the action alternative implementation, with increased severity from opened stands, reduction in moisture retention, and slash. This is a manipulative way to get the public to support huge timber sales with heavy logging. For instance, to say that No Action has higher risk for invasive plant increase than ground disturbance from the action alternatives is ludicrous. See EA p. 206, Table 89 and par. 2. [The exact same text appears in the (final) EA on p. 207, unchanged.] There is no guarantee that either Alt. 2 or Alt. 3 would reduce fire severity. Significant science controversy over the likelihood of commercial logging and fuel reduction actually affecting fire outcomes is not disclosed and analyzed in the EA. (comments on DEA p. 206 [final EA same text on p. 207] with correction of a run-on sentence)

RHCA no activity buffers have been widely recognized as effective mitigation from logging impacts to streams that are based on good science. However there are also recent science studies indicating that INFISH/PACFISH buffers may not be big enough to be effective in all situations. The EA fails to disclose the scientific controversy over riparian buffer size by not incorporating science that refutes the change to smaller riparian buffers. (comments on DEA p. 172) The relevant text appears to be the same in the final EA, with only slight shifts in page numbers.

Resolution:

Blue Mountains Biodiversity Project has commented on the Forest Service's failure to disclose scientific controversy in the Patrick EA. 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 EIS 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 Patrick project violates the National Forest Management Act

The Patrick 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 Recreation and Visual Corridors, Designated Old Growth areas, 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 abundance, road 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 includes 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 Patrick EA 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 Sensitive/Threatened-listed Gray wolf; Threatened-listed Canada lynx; Sensitive-listed Wolverine; Sensitive-listed Pacific fisher; Sensitive Columbia Spotted frog; Sensitive Western Ridged mussel; 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 Patrick project. The EA did not include adequate cumulative effects analysis as to all the 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.

Note that there is no change in plans to adopt alternative 2 in full in the Final EA and Draft Decision Notice, so these comments on the draft EA remain relevant whenever referencing the effects of the alternatives and the information given regarding effects to specific species.

Examples of how our comments express these concerns regarding the failure to ensure the viability of Management Indicator and other species: From EA p. 35:

Given that moist and cold forest types only encompass 21% of the project area, we ask that commercial logging be dropped in these forest types to support species—including MIS Pileated woodpecker, American marten, and Rocky Mountain elk—who evolved with and are dependent on denser, more complex forest structure represented in these forest types. Further, the EA admits that tree density is already lower in these forest types due to past logging and other management, even though these forest types would naturally be more productive, with denser forest. See Table 12, EA p. 35.

In the case of each Management Indicator Species—American marten, Northern goshawk, and Pileated woodpecker, the Forest Service has planned to eliminate from 25% to 66% of source habitat in the watershed through commercial logging. This indicates the unsustainable effects to wildlife habitat and species viability of landscape scale timber sales with increasing percentages of project areas logged and logging at greater intensity. These recent timber sales across the region tend to log to very low density and basal areas, removing forest structural complexity, tree

species diversity, and mature size classes of trees that would otherwise grow large and old to fulfill the functions of large and old structure lost to past logging for wildlife habitat. (comments on EA p. 111 with adjustment to shorter sentences)

Comments re: American marten on EA p. 99: (Please note there are often more handwritten comments on DEA pages.)

Since viability outcomes for marten in Wales (2011 a) found that the viability for current conditions were lower than for historical viability levels for both the scale of the Blue Mountains and the Wallowa- Whitman National Forest, all marten source habitat currently existing in the Blues and the Wallowa-Whitman should be fully protected from logging, forest fragmentation, large snag removal, and mistletoe-infected tree removal, since these are important structural components of marten suitable habitat, which include sufficient canopy closure; structural complexity; large trees and snags; abundant down and elevated logs for winter foraging; and mistletoe brooms for resting and foraging for prey. If the Forest Service insists on managing for historical conditions, it should be managing for retention of historic wildlife species abundance, not just assumed tree density and tree species composition.

The EA supports full protection of existing marten habitat by citing Oregon Department of Fish and Wildlife (ODFW) Conservation Strategy 2019 recommendations for managing marten habitat on EA p. 99. As ODFW is intended to manage wildlife and the Forest Service is supposed to protect wildlife habitat, the Forest Service should follow ODFW recommendations.

We are opposed to any commercial logging, large snag removal, mistletoe felling or removal, and prescribed burning in the identified 2,198 acres of marten source habitat in the North Fork Burnt River watershed and in the Patrick project area, since the “watershed currently provides $\geq$ 40% of the median amount of source habitat that occurred historically, which is above the threshold necessary to support marten population viability (Penninger and Keown 2011).” (comment on EA p. 99)

The EA admits on p. 100 that both alternatives 2 and 3 are expected to remove marten source habitat due to decrease in canopy cover....The EA admits that: “Impacts to marten source habitat are expected to last several decades as canopy closure recovers and tree diameters increase” (EA p. 100), indicating that this would contribute to a trend toward federal up-listing for marten and potentially cause loss of viability in the project area. (comments on EA p. 100)

Re: our concerns that the viability of Pileated woodpecker would not be protected:

The Forest Service needs to take into consideration its own analysis by recognizing the implications of a decline in the amount of Pileated woodpecker source habitat on the Wallowa-Whitman from historical conditions, with 82% of watersheds now having less source habitat than historically, and the North Fork Burnt River watershed having a high weighted watershed index score, indicating that it “provides a considerable contribution to Pileated woodpecker viability on the forest.” (EA p. 111, par.s 1 and 3)

This information should lead the Forest Service to take a precautionary approach by not commercially logging Pileated source habitat in the Patrick sale area. The Forest Service needs to drop the 2,464 acres of commercial logging in alt. 2 and the 2,359 acres of commercial logging in alt. 3. (comments on DEA p. 111)

Long-term (30-40 years or more) loss of two breeding pairs of Pileated woodpeckers in the North Fork Burnt River watershed from the Patrick sale is unacceptable. The rate of successful

reproduction could be lower after the Patrick sale is implemented, and the Pileated woodpecker population could decrease in the watershed, contributing to a federal up-listing trend for the species and its eventual extirpation from the watershed. (Comments on DEA p. 113)

Re: our concerns expressed in our comments regarding protection of Northern goshawk viability:

Drop the planned commercial logging in 6,011 acres of Alt. 2 and 5,851 acres of Alt. 3 of goshawk source habitat, as the EA admit that: “Commercial harvest treatments would likely reduce average stand diameter and/or canopy closure below suitable levels, thereby removing source habitat for the next several decades.” (DEA p. 106) Further, the EA acknowledges that: “The North Fork Burnt River watershed has a high WWI score [Weighted Watershed Index], meaning that it likely provides a significant contribution to goshawk viability on the forest.” (DEA p. 105, 3rd par.) This makes it important to protect and maintain suitable goshawk habitat in the Patrick sale area. (comments on DEA p. 106)

There is ample scientific support for not commercially logging goshawk suitable source habitat in the Patrick sale as planned—see DEA pp. 103-104 [or see FEA pp. 103-104 for the same analysis] re: threats to the species from habitat alteration due to logging, including forest fragmentation, creation of even-aged stands, increases in areas of younger age classes, loss of tree species diversity, loss of mature forest, reduction of mature closed canopy forest, partial removal of stands resulting in <50% canopy closure, creation of open areas and early seral forests, and reduction of habitat components such as existing or future recruitment of large trees, snags, and down logs—all of which is planned or could happen from planned Patrick sale commercial logging, hazard tree felling, and fuel reduction. (comments on DEA p. 106)

As with the analysis for effects to marten, viability could still be affected for goshawk in the Patrick area, and the proposed management could contribute to an upward trend in federal listing for goshawk, based on the EA analysis. Well distributed source habitat is relatively meaningless if it is too small in size and too fragmented to provide for a typical goshawk pair range size or to support goshawk dispersal and genetic diversity. The effects summary for goshawk, as for marten, slaps together a finding of continued viability not supported by science and other analysis in the EA for that species. (comments on DEA p. 107)

Effects to primary cavity excavating woodpeckers:

The analysis re: MIS Primary Cavity Excavators neglects consideration of the continued reduction in overall snag abundance from so much commercial logging tree removal, combined with increased hazard tree logging, and increased access for illegal firewood cutting of snags. Cumulative effects of all the management impacts to snags need to be considered in combination for assessing the total cumulative effects of the Patrick project itself. Also the cumulative effects analysis for snags neglects consideration of the existing high deficit in snags compared to historic conditions, and makes no attempt to quantify the potential loss of future snags due to the high acreage of mature tree logging and the intensity of that logging. (comments on DEA p. 132)

See our additional comments supporting our objection re: the need to maintain the viability of MIS species under NFMA:

Re: Pileated woodpecker: on DEA pages 50, 112, and 113.

Re: negative effects to LOS and old growth habitat for LOS/old growth-dependent species: on DEA page 50.

Re: American marten: on DEA pages 50, 100, and 101.

Re: Northern goshawk on DEA pages 106, 107, and 108.

Re: Rocky Mountain elk: on DEA pages 119 and 121, and see also concerns re: degradation of wildlife connectivity corridors on DEA pages 123.

Re: Land birds, including Neotropical migratory bird species and woodpecker species on DEA p. 140.

Re: Redband trout and Columbia Spotted frog see INFISH comments below under Forest Plan violations.

Resolution

BMBP has commented on its objection to the WWNF's failure to provide for viability of Management Indicator and other species in the Patrick project area. 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.

*Don't use prescribed burning in moist mixed conifer MA-15 old growth stands [and other suitable Pileated woodpecker habitat] as this would degrade Pileated woodpecker habitat by removing soft decomposing logs and snags used for foraging and marten habitat by reducing the abundance of elevated and down logs and possibly torching old growth snags with Pileated nest holes that marten use for denning. (comments on DEA p. 50)

Re: Primary Cavity Excavating woodpecker viability: Protect all existing large snags and groups of snags from logging and biomass ("fuel") reduction, and significantly reduce snag loss by reducing or eliminating mature tree logging, especially in the 15-21" dbh range and by eliminating "temporary" road construction and greatly reducing or eliminating closed road re-opening and reconstruction to reduce loss of snags through hazard tree felling.

Specific to American marten: Drop all suitable marten habitat from: commercial logging, large snag and mistletoe tree felling, and prescribed burning over the 866 acres alternative 2 would remove from marten source habitat (66% of marten source habitat!) and the 803 acres that alternative 3 would remove from marten source habitat—62% of source habitat! (adapted from comments on DEA p. 100)

Specific to Pileated woodpecker: Drop the commercial logging planned for 2,464 acres of Pileated source habitat under Alt. 2 and 2,359 acres under Alt. 3. (comments on DEA p. 112)

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.

Specific to Northern goshawk:

*Drop the planned commercial logging in 6,011 acres of Alt. 2 and 5,851 acres of Alt. 3 of goshawk source habitat.

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.

Re: Birds of Conservation concern:

*The Forest Service needs to follow identified conservation strategies for these listed birds where their suitable habitat exists.

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

Other Forest Plan violations

Additional Forest Plan violations in the Patrick 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; Designated Old Growth management areas; Recreation areas; and not following visual corridor management. Violation of Forest Plan standards also include not adequately protecting Northern goshawk under the Eastside Screens; not meeting road density requirements and snag density and abundance requirements; not following management guidance to prevent the introduction and dispersal of invasive plants; 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. Note that since the Draft Decision Notice and the final EA still plan to proceed with the proposed actions under Alternative 2, all our comments regarding INFISH violations still pertain. See BMBP comments quoted and cited below:

Re: EA p. 29 and written on EA p. 29:

Riparian areas and aquatic species evolved with wild fire, but not with logging and heavy equipment. Generally, the density in riparian areas is not likely to be greater than 9-10" dbh, so noncommercial thinning by hand, leaving all felled trees within the RHCA, should be sufficient. [In most cases we've seen while field surveying, no non-commercial thinning is necessary or desirable.] Drop all commercial logging and heavy equipment use within the RHCAs.

This (planned commercial logging within RHCAs, as shown in Table 8) would be an outrageous violation of the Eastside Screens and its very defensible and credible science supporting the RHCA buffers, to do so much commercial logging within RHCAs—481 acres of RHCA destruction! Both ground-based and skyline logging would foreseeably cause extensive negative impacts to soils, sedimentation of streams, shading, moisture retention, and future recruitment over time of large wood, based on decades of past damages from logging in RHCAs.

We are strongly opposed to commercial logging in RHCAs and will do everything we can legally to stop this. Logging within RHCAs is contrary to decades of best available science and would threaten the viability of Sensitive fish species [Redband trout] and other Sensitive aquatic species such as Columbia spotted frog, and would violate, rather than further, the attainment of Riparian Management Objectives under INFISH.

NCTing [non-commercial thinning] is all that would be needed to release riparian hardwood sprouting. [Prescribed burning by itself could also release and stimulate riparian hardwood sprouting.] Commercial logging in RHCAs is not necessary or desirable.

The analysis of stream temperature data on EA p.148 raises many concerns about further impairment of stream temperature (as well as fine sediment loading) from proposed commercial logging within RHCAs, heavy equipment use in RHCAs, and construction of "temporary" roads in RHCAs. (comments on DEA p. 148) (Re: existing high stream temperatures currently violating standards and Riparian Management Objectives (RMOs) under INFISH/PACFISH, see DEA p. 148, par.s 2, 3, and 4) The same text is on the final EA p. 148, except that there has been a correction made, listing two streams instead of the three listed in the DEA as temperature impaired 303 (d) listed streams, and clarifying that four watersheds are listed for temperature impaired 303 (d) listed streams in the Patrick project area according to the ODEQ database (ODEQ, 2021). (Comments on DEA p. 148)

We are concerned that under alternative 2, 4,693 acres of so-called "Riparian Vegetation Restoration" [RVR] units are being planned. This sounds like overkill, with no site-specific distinctions being made as to conifers being the only or primary source of current stream shading. Not all riparian sites are conducive to growing hardwoods, especially not those bordered by steep slopes with natural topographic and conifer shading. RVR units should be prioritized in open meadow, lower elevation conditions where riparian hardwoods were most likely to naturally occur. We are strongly opposed to all commercial logging, "temporary" road building, re-opening of closed roads, and heavy equipment use and stream crossings in RHCAs. However, much conifer reduction and riparian hardwood stimulation could be done with just NCTing and prescribed burning. (comments on DEA p. 154)

The assumption that water infiltration into soils, rather than runoff increases not being absorbed by soils would be the result of logging and removal of conifers is unsupported in the EA or by past studies of the consequences of logging within RHCAs. (comment on DEA p. 154)

Comments on DEA p. 155:

There should be no streambank trees felled that provide bank stability! This is a standard project design criterion in other Forest Service EA or EIS plans for riparian or aspen restoration—for example, on the Malheur National Forest. Felling and removing tree contributing to bank stability and/or primary shading is contrary to INFISH RMOs. Commercial logging in RHCAs would decrease channel complexity by reducing the recruitment of large down wood. It is highly unlikely that Alternative 2 commercial logging in RHCAs would not increase percent fines into the percent fines into the channel substrate despite PDCs. That is the usual result of commercial logging and any other heavy equipment use within RHCAs. Even prescribed burning is likely to increase fine sediment in the stream channel, but not to the extent caused by logging and heavy equipment use in the RHCAs. Much of this analysis is either wishful thinking or inaccurate use of the science, or purposeful misleading of the public as to the effects to streams.

Comments on DEA p. 156:

Increased runoff from commercial logging in RHCAs could significantly increase fine sediment loading in the stream channel. More bare ground in RHCAs is not desirable due to potential erosion, sedimentation, and introduction and dispersal of invasive plants....Loss of primary or secondary shading could cause increases in perennial and tributary stream water temperatures to the detriment of Redband trout and other aquatic species. The EA analysis seems to carefully neglect to assess the impact of commercial logging in RHCAs to stream temperatures. (See DEA p. 156, par. 4) There is no further degradation of stream temperatures allowed for the North Fork Burnt River and Patrick Creek because they are 303 (d) listed for impaired stream temperature under the Clean Water Act. This means that the North Fork Burnt River cannot have NCTing that would affect shading of the water way, so the 185 acres of NCTing planned would have to be reduced or eliminated to prevent violation of the Clean Water Act. Temporary increases in water temperature (3-5 years) could still be disastrous for Redband trout.

Comments on DEA p. 157: The existing larger RHCA buffers for Category 1 and 2 streams are still based on good science and should be retained for “no machine work” within the INFISH RHCA buffers. Project design criteria and Forest Plan guidelines don’t necessarily ensure no impacts to water quality from road crossings and road construction within RHCAs, as promised in the inadequate analysis....We are strongly opposed to new construction of any “temporary” roads, and especially not in RHCAs. How much of the excessive and unacceptable 38.5 miles of new “temporary” roads is planned for within RHCAs? We are opposed to the construction of “temporary” roads to allow for more stream crossings. Effects to channel morphology are unlikely to ever be restored. We don’t agree with the quick conclusion that upper RHCAs are not part of “true ecological riparian areas”, as upper RHCAs influence moisture retention and erosion and sedimentation effects, as well as potential shading and large wood contribution to the riparian zones, especially as most upper RHCAs are on slopes above the streams.

Comments on DEA p. 169: The language used to describe loss of shading and potential increases in stream temperature in streams where closed roads are re-opened in RHCAs seems purposefully vague and cagey, avoiding quantification, such as “in a relatively small percent of RHCAs”, “local”, and “not expected to increase overall temperature in Category 1 streams.” (See EA pp. 168-169) There is no guarantee that increases in stream temperature would be minor or that mitigation would be 100% effective or even take place. Likewise, “local, short-term” increases in sediment and turbidity from culvert installations, replacements, and removals fails to

quantify potential effects to streams or identify the proximity to Redband trout or other fish species.

Commercial logging within RHCAs under Alternative 2 could decrease large wood recruitment to streams over time compared to existing conditions as 50—100 foot buffers are not enough to prevent reduction of large trees falling into the stream, especially when mature tree heights are 70-100+ feet and/or the trees removed are on relatively steep slopes above the stream. This is one reason INFISH RHCA buffers were designed to be as large as they are. It's simply not true that the: "Current amount of large wood in streams would be maintained" under alt. 2. Further reduction in large wood recruitment to streams is especially unacceptable and contrary to INFISH RMOs when the status quo is only one of six fish-bearing streams met the INFISH RMO for the amount of large wood, and no fish-bearing stream surveyed in the project area meets the INFISH RMO for number of pools per mile. (See EA p. 169)

Comments on DEA p. 171: The analysis does not really demonstrate that there would be no increase in stream temperature from the commercial logging planned for within RHCAs under Alternative 2, as shading from the outer RHCA buffer above the streams could be lost where there are steep slopes. There could also be gaps in the inner RHCA overstory canopy that currently exists that are compensated for by tall trees on upper slopes above the stream in the outer RHCA. There is no site specific analysis in the EA that disproves this. Secondary shading of streams can also be important for cool stream temperatures when primary shade trees die or fall. (These comments refute the DEA assumption that: "The measure stream temperature would be maintained in Alternative 2." See DEA p. 171, par. 3)

The EA admits that: "INFISH riparian no activity buffers described above have long been recognized as a mitigation measure to reduce sediment transport to streams." (DEA p. 171, 4th par.) Our related comment: "The EA admits that original INFISH no activity buffers "have long been recognized as mitigation measure to reduce sediment transport to streams." ...Yet Alt. 2 would allow INFISH violations by reducing INFISH no activity buffers, reducing their effectiveness as mitigation for management (logging, heavy equipment use) soil disturbance, erosion, and fine sediment delivery. The analysis also admits: "The effect of increasing sedimentation rates to stream channels from changes in overland flow patterns would occur" from reduced INFISH buffers in alt. 2 for logging in RHCAs. (EA p. 171, par. 5)

Our other comments supporting this objection can be found on DEA pages 15, 30, 59, 149, 153, 164, 165, 166, 167, 168, 172, 173, and 174. There may also be additional comments that were not typed in the objection on pages from which comments were quoted.

Resolution

BMBP has commented on the Patrick 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 all commercial logging and heavy equipment use within RHCA buffers.
- *Conifer thinning could be done by hand only up to 18" dbh for aspen stand recovery which retains conifers providing streambank stability and primary shading and leaves all felled trees within the RHCA and aspen area.

*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.

Specific resolution remedies for planned logging in RHCAs from our comments:

*We advocate for far less management within the RHCAs, as some RHCAs would be degraded by proposed management and some don’t need the proposed management. (This is in reference to all the other riparian management proposed that does not include commercial logging, which we reject in its entirety) (comment on DEA p. 154)

*There should be no pile burning within RHCAs, instead using broadcast burning or lop and scattering. (comment on DEA p. 154)

*There should be no streambank trees felled that provide bank stability. (comment on DEA p. 155)

*We are opposed to removing NCT-size trees from right next to streams when they are providing the only significant shading to the stream. (comment on DEA p. 172)

*Drop thinning (NCT or PCT) of trees on streambanks, and within RHCAs where their removal could reduce direct or primary shading of the stream—if alt. 2 is implemented in the 1,998 acres on each side of Category 1 channels, the 762 acres within RHCA buffers of Category 2 channels, and within 982 acres of Category 4 RHCA buffers. (comment on DEA p. 173)

Failing to adhere to Eastside Screens Protections for Northern goshawks

Our comments on the DEA regarding goshawk clearly explain our rationale for this objection. The intent of the Eastside Screens protections for Northern goshawk is to protect the viability of the species.

Re: our concerns expressed in our comments regarding protection of Northern goshawk viability:

Drop the planned commercial logging in 6,011 acres of Alt. 2 and 5,851 acres of Alt. 3 of goshawk source habitat, as the EA admit that: “Commercial harvest treatments would likely reduce average stand diameter and/or canopy closure below suitable levels, thereby removing source habitat for the next several decades.” (DEA p. 106) Further, the EA acknowledges that: “The North Fork Burnt River watershed has a high WWI score [Weighted Watershed Index], meaning that it likely provides a significant contribution to goshawk viability on the forest.” (DEA p. 105, 3rd par.) This makes it important to protect and maintain suitable goshawk habitat in the Patrick sale area. (comments on DEA p. 106)

There is ample scientific support for not commercially logging goshawk suitable source habitat in the Patrick sale as planned—see DEA pp. 103-104 [or see FEA pp. 103-104 for the same analysis] re: threats to the species from habitat alteration due to logging, including forest fragmentation, creation of even-aged stands, increases in areas of younger age classes, loss of tree species diversity, loss of mature forest, reduction of mature closed canopy forest, partial removal of stands resulting in <50% canopy closure, creation of open areas and early seral forests, and reduction of habitat components such as existing or future recruitment of large trees, snags, and down logs—all of which is planned or could happen from planned Patrick sale commercial logging, hazard tree felling, and fuel reduction. (comments on DEA p. 106)

As with the analysis for effects to marten, viability could still be affected for goshawk in the Patrick area, and the proposed management could contribute to an upward trend in federal listing for goshawk, based on the EA analysis. Well distributed source habitat is relatively meaningless if it is too small in size and too fragmented to provide for a typical goshawk pair range size or to support goshawk dispersal and genetic diversity. The effects summary for goshawk, as for marten, slaps together a finding of continued viability not supported by science and other analysis in the EA for that species. (comments on DEA p. 107)

Further BMBP comments supporting this objection can be found on DEA pages 106, 107, and 108.

Resolution

*Drop the planned commercial logging in 6,011 acres of Alt. 2 and 5,851 acres of Alt. 3 of goshawk source habitat.

*This includes dropping any commercial logging and most non-commercial thinning (limited to less than 25% of the PFA, away from the nest area) from all goshawk Post Fledging Areas (400 acres or more) in the Patrick project area.

*This includes dropping any commercial logging and non-commercial thinning from the identified Northern goshawk nest stands, within a 30 acre buffer.

Failure to Adhere to Forest Plan Management Area Standards and Guidelines

Re: Violation of Management Area standards and guidelines for MA-15 designated old growth stands, our comments explain our concerns:

Comments from EA p. 50:

Don't use prescribed burning in moist mixed conifer MA-15 old growth stands as this would degrade Pileated woodpecker habitat by removing soft decomposing logs and snags used for foraging and marten habitat by reducing the abundance of elevated and down logs and possibly torching old growth snags with Pileated nest holes that marten use for denning.

The analysis for MA 15 stands finds that most Forest Service objectives would be met by just NCTing and prescribed burning alone. This is true for the old growth and most mature stands outside designated old growth. The EA specifically finds that NCTing and prescribed burning alone would reduce "fuel" loading, increase resiliency to stand replacement fire, and assist in protecting private lands by reducing ladder fuels. This is true for the entire project area, making NCTing and burning only a viable alternative. Just NCTing and prescribed burning would also reduce most inter-tree competition and stress and achieve reducing the spread of insect defoliation and increased tree vigor and resiliency to insect outbreaks.

A theoretical HRV conformance goal ignores a recent Pacific Northwest Research Center [study] refuting the idea that management should try to mimic a static point or range in time. HRV seems to be introduced as a consideration just to justify commercial logging, when a lot of commercial thinning and high-grading has already been done in the area, as well as likely early clearcutting to establish plantations. Commercial logging does not constitute restoring the forest. (See Table 21, p. 50.)

Comments from EA p. 52:

Table 22 makes little sense—How would alternatives 2 and 3 increase OFMS from 15% (Alt. 1) to 20%, when the stated plans are to reduce OFMS by converting it to OFSS? (which increases from <1 % to 41 or 40%.) The same goes for Table 23 for moist forest, where there is a projected increase in OFMS from 16% to 23% even as it is logged to low density to increase OFSS from < 1% to 36 and 34% . Likewise, Table 24 shows an increase from 15% OFMS to 28% even though

logging would increase OFSS from 0 to 20%. This is inaccurate and misleading use of the science.

What are the actual data sources (date, type of data, location for data) for HRV determination by Powell 2012? Likely it is very generalized and not specific to the Patrick sale area. Eastern Oregon have highly variable topography and elevation that would render most generalizations inaccurate.

See also our comments regarding protecting the viability of Pileated woodpecker and American marten under the National Forest Management Act viability of Management Indicator species section above.

Resolution

- *Drop all commercial logging in Old Growth Management Areas.

- *Drop all non-commercial thinning in mixed conifer OGMA's except for extreme cases of very high density of small trees. There should still be more retention of small trees in mixed conifer than in dry Ponderosa pine-dominant stands.

- *Non-commercial thinning should be by hand only and only up to 9" dbh.

- *Prescribed burning should not be used in moister mixed conifer OGMA's with significant Douglas fir and/or Grand fir, in order to preserve suitable habitat structure for Pileated woodpecker and American marten.

- *There should be no shrub mowing and/or mastication in OGMA's.

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:

Species needing intact wildlife connectivity corridors with higher canopy closure and greater structural complexity for security from predators, thermal protection, and moisture retention include: elk, deer, Canada lynx, Gray wolf, American marten, Columbia spotted frog, Pileated woodpecker and other woodpecker species, Neotropical songbirds, and Redband trout [where these are associated with riparian corridors.] Given the large scale removal of tree density and forest cover planned across the sale area, the generally small size of tree density in connectivity corridors (primarily understory re-initiation stage—EA p. 122), and the existing isolation of old forest stands, drop all commercial logging in the wildlife connectivity corridors. NCTing and prescribed burning could still be used in connectivity corridors to reduce inter-tree competition stress. The EA acknowledges that: "Timber harvest is the primary activity that would reduce canopy closure and decrease structural complexity...." (EA p. 122, last par.) With extreme climate change effects, wildlife species need connectivity more than ever to disperse or migrate north or to higher elevations to find suitable habitat as southern and lower elevation forest becomes unsuitable due to drought, lack of water or forage, and potentially more extensive and

high severity wild fires. Species that use security habitat and connectivity corridors need less human disturbance, [more] moisture retention, and [greater] thermal protection, which include greater canopy cover and more structural complexity. (all comments above from DEA p. 123)

See also our additional comments supporting this objection on DEA page 121 re: elk needing adequate forest cover (hiding and thermal) for security habitat, which includes wildlife connectivity corridors.

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 prescribed burning in wildlife connectivity corridors in moister mixed conifer stands (e.g. with Grand fir) and in riparian corridors, limit ignitions to outside RHCAs.

Logging and roading within undeveloped Recreation sites does not meet the Forest Plan Management Area requirements and intent

Our comments state the rationale for this objection:

The Recreation and Visuals effects analysis in the EA ignores the recreational use and recreational values of the Czar Springs Unroaded Area and foreseeable management impacts to that area from Patrick sale actions—even though the recreational use of that area is mentioned on the previous page of the EA, p. 215. The Recreation section also fails to identify the Czar Springs Unroaded Area, with fewer roads, in the ROS section. (comments on DEA p. 216) The EA analysis implies that negative effects to recreational uses only occur during implementation of management actions or are very short-term. This is not true for commercial logging and road-building or closed road re-opening. EA analysis is supposed to result in identification of means to prevent or mitigate environmental impacts. There is no consideration in the EA of potential avoidance of negative impacts to recreational uses, such as for dispersed camping, hiking, wildlife viewing, scenic views, edible and medicinal plant gathering, backpacking, etc. or of potential mitigation for these impacts. (comments on DEA p. 218) See also our comments regarding “Visuals” or visual quality below.

*Drop all planned logging, “temporary” road construction, and re-opening of any closed roads in the Czar Springs Unroaded Area, as well as logging or roading in dispersed campsites and other areas of popular recreational use.

*Also enact the resolution remedy for visual management corridors below, as this would also considerably maintain and enhance recreational values.

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

Our comments explain our objection position:

Since the majority of the project area is in the Visual Quality Objective management area of Partial Retention, how would management of every acre of the project area, including 21,614 acres of commercial logging (or more), 43 miles of “temporary” road building, 8,802 acres of

“mechanical treatment”, and 36,032 acres of prescribed burning (see Table 91, p. 209) keep management activities “visually subordinate to the characteristic visual landscape” and “not visually evident”? (EA p. 217, par. 2) Such extensive landscape scale intensive management with clearly unnatural visual effects—especially long-term effects of commercial logging—would violate VQO [Visual Quality Objective] partial retention requirements. This is the definition of over-management and unsustainable management effects, including management “activities” “across every acre of the project area”! (See EA p. 217, par. 3) The Forest Service seems to be very obsessed with the false idea that the forests would not survive without their management, constantly blocking the functioning of natural disturbances that thin and diversify the forest and provide habitat niches and ensure biodiversity. (comments on DEA p. 217)

Just saying that “Direct effects to visuals would be minimal” is not enough, as the analysis does not clarify how the partial retention objective of management activities being visually subordinate to the characteristic landscape would be achieved. When we were field surveying the Patrick commercial sale units for the scoping period, we noticed, and were depressed by, the lasting impacts of previous commercial logging, including the removal of most large old trees, the homogenization of stands as Ponderosa pine plantations, stumps, skid roads and skid trails, and areas of limited plant diversity, as well as by obvious impacts of over-grazing, especially in riparian areas. It’s simply not true that previous management “activities” “do not have any residual effects on current recreation activities or scenic quality” as claimed on EA p. 219 under “Cumulative Effects.” This is inadequate cumulative effects analysis.

Resolution

*Significantly scale down the planned commercial logging to half or less of what is currently planned, focusing thinning on dry Ponderosa pine plantations that are not near 21” dbh and dropping all or most logging in moister mixed conifer and mixed conifer at higher elevations and dropping all logging and most non-commercial thinning in all RHCAs. Drop all “temporary” road construction and most or all planned re-opening of closed roads. Drop all or most shrub mowing and mastication. Retain all dead wood habitat, including existing down wood and all snags >8” dbh. Drop all commercial-size logging, burning, and shrub mowing/mastication in suitable habitat for Pileated woodpecker and American marten. Drop all commercial logging and road construction or re-opening in wildlife connectivity corridors and undeveloped lands. Preserve all large trees ≥ 21 ” dbh. Following all these recommendations, including large-scale reduction of planned commercial logging and “temporary” road construction and re-opening of closed roads, would enable the Patrick area to continue to meet visual quality objectives of at least partial retention and continue to attract recreational use and honor recreational values.

Violation of Forest Plan Road Density standards and Road Concerns regarding high mileage of “temporary” road construction and re-opening of many miles of currently closed roads planned

Our comments regarding impacts to wildlife species sensitive to disturbance and our other road-related comments explain our position: See also our other comments regarding deer and elk security concerns.

The Forest Service should close and decommission more roads wherever current road density currently exceeds Forest Plan standards or is very high (see Table 60, EA pp. 115-116) in order to meet Forest Plan standards and increase security for elk and other disturbance-sensitive species such as Mule deer, Gray wolf, and Wolverine. With such high open road density across the sale

area, there must be plenty of roads that should be closed because they are: redundant, little used, overgrown, or causing ecological problems, such as being hydrologically connected, eroding, or degrading elk security habitat or calving habitat. (comments on DEA p. 119)

We are strongly opposed to new construction of any “temporary” roads, and especially not in RHCAs....”Temporary” roads are rarely fully decommissioned and are often re-used by the Forest Service as de facto system roads. So-called “temporary” roads open increased access for ATVs, illegal firewood cutting, livestock, invasive plant distribution and introduction, and fur trapping—all negative impact incursions. (comments on DEA p. 157)

We are strongly opposed to the re-opening of closed roads to access logging sale units, for log truck hauling, and for heavy equipment use, as re-opening closed roads increases active road density and can be expected to increase fine sediment levels in streams as per Cederholm and Reid, 1987, as cited on EA p. 167. The EA further confirms the likelihood of increased overall erosion and fine sediment contribution due to re-opening of closed roads in RHCAs--on EA p. 168, par. 3. (comments on DEA p. 168)

See our additional comments on the need to reduce road density and reduce the impacts of roads written on the following DEA pages: 22, 23, 25, 121, 157, 165, 167, 196, 199, and 201.

Resolution

BMBP has commented on our concerns re: ‘temporary’ road construction and the re-opening of many 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.

*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 within or less than Forest Plan standards, based on best available science.

*Drop construction of all “temporary” roads, including the 26 miles of “temporary” roads proposed on soils with high erosion hazard! (See EA p. 199, last par) So-called “temporary” roads are seldom obliterated immediately following use—or ever. (Comments on DEA p. 199)

Potential Violation of Forest Plan Snag Density, Abundance and Size Requirements and Down Wood Size and Abundance Requirements

We couldn’t find any specific analysis discussion in the EA of whether Forest Plan snag density, abundance, and size requirements or down wood size and abundance requirements would be met. This is a significant omission and represents inadequate analysis as well as potential violation of snag and down wood size, density, or abundance requirements. It is impossible to know if planned management actions would result in violation of Forest Plan standards for snag density, size, and abundance, or for down wood size and abundance if the attainment of Forest Plan requirements is not analyzed, with not only disclosure of current snag and down wood density, sizes, and abundance, but also calculation of snag and down wood density, sizes, and abundance that would be retained after planned management actions are implemented.

Our comments illustrate our related concerns: See our snag and down wood density, size, and abundance related comments under NFMA MIS species viability above, with sample comments below. Our comments also mentioned concern over the elimination of future large snags by logging large hazard trees and too many existing mature trees.

Re: effects to Management Indicator primary cavity excavator woodpecker species:

This is the only section of the DEA (and the final EA) where we found disclosure of DecAID (Region 6 Decayed Wood Advisor) data on North Fork Burnt River Watershed existing snag densities by size and Forest Plan standards for down wood, but apparently not for snags. However this section of the EA gave us multiple reasons for concern that Forest Plan standards for snags and down wood would not be met:

“Seventy-seven percent of the eastside mixed conifer wildlife habitat type within the watershed has less than 6 snags/acre that are 10-20” DBH (Figure 12). For large snags (>20” DBH), 92% of ponderosa pine/Douglas-fir and 84% of the eastside mixed conifer in the watershed has less than 2 snags/acre (Figure 13 and Figure 14). At current snag densities, it is unlikely that much of the watershed is providing high quality habitat for primary cavity excavators.” (EA p 126, emphasis ours)

“Both action alternatives have the potential to reduce snags within proposed treatment areas.” (EA p. 130) “By reducing stand densities, the action alternatives would decrease the potential for habitat availability in the form of stand-replacement fires or large areas of insect-induced conifer mortality.” (EA p. 131 but the claim is speculative re: stand density reduction necessarily reducing stand-replacement fires or large areas of insect-induced forest mortality) “Firewood cutting within the project area could be increased after implementation due to the clearing and re-opening of roads that have grown closed.” (EA p. 131) “Current availability of snags in the project area is below the historical range of variability.” (EA p. 132)

Our comments on this section regarding the analysis regarding effects to snags:

The analysis re: MIS Primary Cavity Excavators neglects consideration of the continued reduction in overall snag abundance from so much commercial logging tree removal, combined with increased hazard tree logging, and increased access for illegal firewood cutting of snags. Cumulative effects of all the management impacts to snags need to be considered in combination for assessing the total cumulative effects of the Patrick project itself. Also the cumulative effects analysis for snags neglects consideration of the existing high deficit in snags compared to historic conditions, and makes no attempt to quantify the potential loss of future snags due to the high acreage of mature tree logging and the intensity of that logging. (comments on DEA p. 132)

The final EA section on Primary Cavity Excavators appears to be identical to the Draft EA version, with no changes made, and the same text on pages cited for the DEA.

Our following comments from the NFMA MIS wildlife viability section includes comments pertaining to the needs of various wildlife species for sufficient abundance, density, and sizes of snags and down wood:

Since viability outcomes for marten in Wales (2011 a) found that the viability for current conditions were lower than for historical viability levels for both the scale of the Blue Mountains and the Wallowa-Whitman National Forest, all marten source habitat currently existing in the Blues and the Wallowa-Whitman should be fully protected from logging, forest fragmentation, large snag removal, and mistletoe-infected tree removal, since these are important structural components of marten suitable habitat, which include sufficient canopy closure; structural complexity; large trees and snags; abundant down and elevated logs for winter foraging; and mistletoe brooms for resting and foraging for prey. If the Forest Service insists on managing for

historical conditions, it should be managing for retention of historic wildlife species abundance, not just assumed tree density and tree species composition. (comments on DEA p. 99)

There is ample scientific support for not commercially logging goshawk suitable source habitat in the Patrick sale as planned—see DEA pp. 103-104 [or see FEA pp. 103-104 for the same analysis] re: threats to the species from habitat alteration due to logging, including forest fragmentation, creation of even-aged stands, increases in areas of younger age classes, loss of tree species diversity, loss of mature forest, reduction of mature closed canopy forest, partial removal of stands resulting in <50% canopy closure, creation of open areas and early seral forests, and reduction of habitat components such as existing or future recruitment of large trees, snags, and down logs—all of which is planned or could happen from planned Patrick sale commercial logging, hazard tree felling, and fuel reduction. (comments on DEA p. 106)

*Don't use prescribed burning in moist mixed conifer MA-15 old growth stands [and other suitable Pileated woodpecker habitat] as this would degrade Pileated woodpecker habitat by removing soft decomposing logs and snags used for foraging and marten habitat by reducing the abundance of elevated and down logs and possibly torching old growth snags with Pileated nest holes that marten use for denning. (comments on DEA p. 50)

BMBP has commented on our objection that the Patrick Project proposed actions could lead to a significant reduction in existing and future snag density, size, and abundance, and in down wood abundance and size in potential violation of Forest Plan standards.

Resolution:

Resolution to our objection regarding snag density includes the following modifications to the Patrick 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 8" dbh could usually still be done in these stands without harming the woodpecker species.

*Reduce or eliminate 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, which also reduces levels of down wood.

*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 logs and pockets of abundant snags and/or logs from logging.

*Drop all proposed biomass reduction (e.g. of existing down wood, shrub mowing/mastication, and/or pile burning) that would leave the Patrick area not meeting down wood abundance and size requirements based on best available current science. Leave all existing down wood and buffer large logs from prescribed fire.

*Scale down the use of prescribed fire significantly by not burning suitable Pileated woodpecker and American marten habitat and cooler, moister, high elevation mixed conifer stands. These are typified by the presence of residual old growth Grand fir and/or Douglas fir live trees, snags, and

logs and by riparian zone influence on the forest, such as RHCA's and the presence of Englemann spruce, Subalpine fir, and/or Western larch.

Potential Violation of Soil Protection Standards

Our comments explain our objection:

Drop the 52 sale units expected to exceed the Forest Plan standard of the 20% threshold for detrimental soil impacts—from all heavy equipment use, including commercial logging. Soil mitigation strategies are rarely 100% effective and are often never implemented. It's better to prevent soil damage than try to mitigate it—often with little or no success—especially as soil impacts are very long-term, up to 70 years or more. See EA p. 195, par. 2.

Project design criteria, including for soil impacts, need to be disclosed and discussed in the EA so the public can consider their effectiveness and comment. New and total detrimental soil conditions should also be disclosed and analyzed in the EA. Most of the public has no reason to anticipate the need to somehow access the specialist reports in the “project file” in order to see this information and comment on it. (comments on DEA p. 196)

Comments on DEA p. 197:

Subsoiling only deals with compaction and mixes the soil layers. It does not necessarily address all the soil impacts caused and is not always implemented as promised.

How does logging the mature, shading canopy “on droughty soils”...”help restore soil moisture and plant community ecological processes”? (See DEA p. 197, par. 2.)

Drop the loopholes in the soil impact PDCs, such as “unless no other location is practical” and “if this is not possible”.

Why aren't hydric soils being identified in advance of implementation so as to buffer them beforehand and meet national and regional laws and regulations? (See DEA p. 197, par. 3 and 6)

Drop the 6,944 acres in Alternative 2 and the 6,173 acres in Alt. 3 with high erosion hazard from all heavy equipment use, including commercial logging. Likewise, drop the 4,130 acres under Alt. 2 and the 3,597 acres under Alt. 3 with “very high erosion hazard” from all heavy equipment use, including commercial logging. Such exclusions from heavy equipment use have been standard on some of the eastern Oregon National Forests. It's much easier to prevent erosion and soil loss than to restore it. NCTing and prescribed burning could still take place in these areas, which is usually all that's really needed. (Comments on DEA p. 199)

Full INFISH buffers are a necessary mitigation for overland flow erosion and fine sediment delivery to streams—from landscape burning, as well as logging. (Comment on DEA p. 199)

This is outrageous that such high levels of detrimental soil impacts—6,300 or 6,295 acres and tons per acre of erosion, and heavy equipment use and road construction on areas with high to very high erosion potential or landslide potential or existing landslides would be planned and accepted! See Table 88 on EA p. 204. (comment on DEA p. 204) How does the expected outcome of thousands of acres (over 6,000) of detrimental soil impacts and tons of hillslope erosion and heavy equipment use and road building on soils with high to very high erosion potential or existing landslides meet the NFMA requirement of no irreversible damage? See EA p. 205, 1st par., and Table 88 on EA p. 204. How does all this soil damage comply with 36 CFR 219.20, which “requires conservation and protection of soil and water resources”?

How are the expected action outcomes in Table 88 consistent with the Region 6 FSM 2500-98-1 policy? (See DEA p. 205: “Regional guidance is available from the Region 6 FSM for Watershed Protection and Management 2500-98-1. Regional policy states: ‘Design new activities that do not exceed detrimental soil conditions on more than 20 percent of an activity area....the cumulative detrimental effect of the current activity following project implementation

and restoration must not exceed 20 percent. In areas where more than 20 percent detrimental soil conditions exist from prior activities, the cumulative detrimental effects from project implementation and restoration must, at a minimum, not exceed the conditions prior to the planned activity and should move toward a net improvement in soil quality.” (DEA p. 205) Allowing for soil impacts and landslides, as in Table 88, would violate NFMA and Region 6 soil policy, which is embedded in the Forest Plan.

We also had comments on detrimental soil impacts that were not typed on DEA pp. 196 & 198.

Resolution

BMBP has commented on our objection that the Patrick 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 30% 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.

Resolution remedies specific to the Patrick project from our comments on DEA pp. 195-205:

- *Drop the 52 sale units expected to exceed the Forest Plan standard of the 20% threshold for detrimental soil impacts—from all heavy equipment use, including commercial logging. All heavy equipment use and commercial logging should be dropped where detrimental soil impacts are expected to exceed the Forest Plan limit of 20%, not just addressed with “restoration efforts”.
- * Drop the 6,944 acres in Alternative 2 and the 6,173 acres in Alt. 3 with high erosion hazard from all heavy equipment use, including commercial logging. Likewise, drop the 4,130 acres under Alt. 2 and the 3,597 acres under Alt. 3 with “very high erosion hazard” from all heavy equipment use, including commercial logging.
- *Drop all logging and heavy equipment use on steep slopes $\geq 30\%$ to avoid displacement and erosion of topsoil, a “perhaps permanent loss of soil productivity.” (EA p. 198, emphasis ours) This is standard for most timber sales in eastern Oregon, especially since the smaller average tree size remaining after past logging makes it uneconomical to use yarding or helicopter logging.
- *Drop all heavy equipment use, including commercial logging, for the 1,651 acres (Alt. 2) or 1,511 acres (Alt. 3) of slopes “with increased potential for landslides or existing landslides.” (EA p. 200, 2nd par. under “Soil Stability”).
- *Drop the identified “headscarp of the landslide area on the 1040 road” which “has a moderate likelihood of slope failures following post timber harvest” from any heavy equipment use, including commercial logging. Our comment: “Soil PDC 10 does not stop the soil damage (mass failure) before it occurs, as PDCs should. (See EA p. 200, 2nd to last par.)
- *Drop all the landslide areas with moderate to high hazard levels from heavy equipment use and logging! Why are these risks being taken? These include multiple sites identified in par. 1 of EA p. 201.
- *Drop construction of planned “temporary” roads located on landslide prone areas—4.1 miles under Alt. 2 and 1.3 miles under Alt. 3. Isn’t this just common sense? Apparently common sense is lacking re: planning for landslides. (See EA p. 201) What good would a field inspection do after the damage is done?

- *Drop construction of all “temporary” roads, including the 26 miles of “temporary” roads proposed on soils with high erosion hazard! (See EA p. 199, last par) So-called “temporary” roads are seldom obliterated immediately following use—or ever. (Comments on DEA p. 199)
- *Drop the loopholes in the soil impact PDCs, such as “unless no other location is practical” and “if this is not possible”.
- *Identify hydric soils and buffer them from all heavy equipment use in advance of management implementation.
- *Retain full INFISH RHCA buffers with no heavy equipment use, commercial logging, or road construction or closed road re-opening within INFISH RHCA buffers.

Potential Violation of the 2005 Region 6 Record of Decision re: Invasive Plant Management, that should be incorporated within the Wallowa-Whitman National Forest Invasive Plant Treatment Program EIS (USDA 2010) and the Forest Plan

Our comments on the foreseeable effects of proposed management on a landscape scale of increasing introduction and distribution of invasive, exotic plants appear on DEA pages 206-210. The final EA appears to have identical text, just shifted slightly onto pages 206-211 from pages 205-210 in the DEA. (The vast majority of the final EA appears to be unchanged from the Draft EA.) Our comments on the EA analysis explain our position:

...to say that No Action has higher risk for invasive plant increase than extensive ground disturbance from the action alternatives is ludicrous. See EA p. 206, Table 89, and par. 2. There is no guarantee that either Alt. 2 or Alt. 3 would reduce fire severity. Significant science controversy over the likelihood of commercial logging and fuel reduction actually affecting fire outcomes is not disclosed and analyzed in the EA. (comments on DEA p. 206, with correction of a run-on sentence.) The actual management actions that would cause increases in the introduction and/or spread of invasive plants far outnumber [risks of No Action] and are more likely to increase invasive plant populations than a future theoretical wild fire, which could also happen in combination with action alternative effects. These include: construction of “temporary” roads; re-opening of closed roads; widespread and sometimes intensive ground disturbance from logging, culvert replacement, road realignment, etc.; widespread reduction in native plant competition with invasive plants; heavy equipment use near existing invasive plant populations; and inadvertent transportation of invasive plant seed into and around the project area by vehicles and heavy equipment associated with management over 20,000 to 30,000 acres. The sheer scale of ground disturbing actions bumps the invasive plant risk to High, not Moderate. See Table 91, EA p. 209. (comments on DEA p. 207)

Table 91 reveals an outrageously high level of ground disturbance to be proposed for one timber sale, based on both the extensive acreage affected—virtually the whole project area with 36,032 acres of prescribed burning alone, plus 21,614 acres of ground-based logging, 43 miles of “temporary” road construction, unspecified mileage of closed [road] re-opening, and pile burning over 30,416 acres!—and also based on the intensity of planned logging and so many management actions planned for highly erosive soils and dormant or active landslide terrain, which could further transport invasive plant seed and demolish native plant cover. This timber sale needs to be either scaled down significantly or stopped entirely. (comments on DEA p. 209, with minor corrections)

Why is there no stated plan in the EA to identify, buffer, and avoid heavy equipment use and ground disturbance near and in the 1,100 acres of invasive plant populations within the project area? Why aren’t the existing invasive plant species identified and analysis devoted to preventing their introduction and dispersal, as required by the 2005 Region 6 Forest Plan amendment? (more comments on DEA p. 209) The 2005 Region 6 ROD [Record of Decision], amendment #5, also stresses required prevention of the sources of invasive plants, which is violated in the

Patrick sale by planning for very extensive ground disturbance with no specific plans to avoid existing invasive plant populations, and acknowledgement of multiple invasive plant dispersal vectors, and no clear plans to reduce ground disturbance and vectors substantially to prevent invasive plant introduction and dispersal. (comments on DEA p. 210)

Additional BMBP comments on effects re: invasive plants can be found on DEA pp. 206 & 207.

Resolution

To resolve this objection, the Forest Service would have to greatly scale down their planned ground disturbance by significantly reducing the acreage of commercial logging, including by: dropping all commercial logging in RHCAs, undeveloped lands, OGMAs and old growth or LOS mixed conifer stands, and wildlife connectivity corridors; and further reducing ground disturbance by not constructing any “temporary” roads; not re-opening closed roads that are already overgrown or effectively blocked, or that were closed for ecological protection reasons; and not engaging in widespread shrub mowing or mastication and greatly scaling down any mechanical biomass (“fuel”) reduction or grapple piling. These measures, taken together, would greatly reduce or prevent landscape-scale invasive plant introduction and dispersal when coupled with adherence to Region 6 Invasive Plant Management FEIS guidelines for preventing introduction and dispersal of invasive plants.

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.

Our comments on undeveloped lands appear on DEA pages 214 and 215.

We support the Oregon Wild proposal that commercial logging and road building and closed road re-opening be excluded from the Czar Springs Unroaded Area. There are very few relatively undeveloped lands left—especially in this area, which largely suffers from multiple types of past and ongoing over-management: logging, roading, livestock grazing, firewood cutting, etc. All remaining relatively undeveloped lands should be protected for recreation, more intact wildlife habitat, wildlife refugia, water quality, and carbon sequestration, as well as for scientific reference conditions and study. The Forest Service does not disclose in the EA how much of the Czar Springs Unroaded Area actually has evident closed system roads that are not overgrown and any evidence of past commercial logging. This is inadequate analysis for undeveloped lands. 1,500 acres is large enough for potential future designation and protection of an Inventoried Roadless Area. IRA designation consideration should be preserved by not implementing commercial size logging and road construction (including “Temporary” roads) or re-opening of closed roads. We are strongly opposed to any commercial logging and road building in never logged, lightly logged, or recovered overgrown forest with little evidence of past logging and roads. I have read about and been to IRAs that do still have limited evidence of past logging and road building, both along the edges but within the IRA or extending further into the middle of the IRA—that receive recreational use as an IRA—e.g. on the Malheur National Forest. (comments on DEA p. 214)

Cumulative effects of commercial logging and road building or closed road re-opening last for decades and degrade recreational values or even drive away recreationists. Cumulative effects include those that are “limited in scope and time”, which are weasel words to avoid quantifying the time period and extent of impacts to apparent naturalness and solitude from commercial

logging, “temporary” road building, and re-opening closed roads in an apparently popular recreation area—which is likely popular precisely because it has been far less managed—at least recently—and has undeveloped land appeal. (comments on DEA p. 215)

There are two additional comments on EA p. 214.

Resolution

We request the following:

- *Please clearly identify the location and size of any other undeveloped lands identified by the Forest Service so that we can evaluate the condition and size of the blocks of undeveloped lands.

- * Drop any logging, closed road re-opening, or building of “temporary roads” 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 Patrick Project Would Potentially 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 up-listing for Threatened-listed Canada lynx; Sensitive/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 Patrick project area that is potentially threatened by Patrick Draft Decision Notice 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 on EA p. 95:

We want to know what the effects of the Patrick sale would be to Gray wolves; Canada lynx; Pacific fisher; Wolverine; any listed fish, mollusk, or amphibian species; and any listed Threatened or Sensitive or rare invertebrates (such as bumblebees, butterflies, and aquatic insects); and Threatened, Sensitive, or rare plant species. Such disclosure of TESC species (which does appear in two tables) and effects analysis pertaining to them (which is inadequate and cursory in the tables) is standard Forest Service procedure in Environmental Assessments and EISes. This failure to include the in-depth analysis in the EA is a serious breach of NEPA requirements and the Endangered Species Act. Detailed analysis of environmental effects can’t be shunted off to an inaccessible agency file. (Right now Forest Service offices are not even open and not everyone (including me) has internet access.) There is not even any disclosure of how to find this “separate document”, and many people in the rural public, including myself, do not have internet access. The purpose of an EA or EIS is to make the environmental effects analysis available to the public for review and comment. (See EA p. 95, 2nd to last par.)

How are some of these PETS [Proposed for up-listing, Endangered, Threatened, and Sensitive species] determined to be “not present”? Even this is not explained. Were there any surveys for species like Gray wolf, Bighorn sheep, Gillette’s Checkerspot, or Rocky Mountain tailed frog in the project area? Listing species and agency conclusions does not constitute adequate analysis for PETS species under NEPA or adequate protection of species known or suspected to be in the project area under the ESA. We remain concerned regarding contributing to a trend toward federal up-listing or loss of a species’ population in the project area for the following species: Gray wolf, White-headed woodpecker, Lewis’ woodpecker, Columbia spotted frog, Shiny Tightcoil, Fir Pinwheel, Umatilla Megomphix, Western bumblebee, Suckley Cuckoo bumblebee, and Intermountain Sulphur, based on the limited information available in the EA. (comments on DEA p. 182)

Without knowing the population status, rate of reproductive success, and associated viability thresholds for PETS species, the Forest Service cannot assume that there would be no trend toward federal up-listing or no loss of species or population viability in the project area for wildlife species likely or known to occupy habitat in the project area. This applies to all species listed as “known” or “potential” for having suitable habitat in the project area. There should have been analysis in the EA showing why species viability determinations were made as “No effect”, “No impact” or “MIIH”. (comments on DEA p. 181)

Why is there only a “preliminary” evaluation of which PETS species have potential habitat within the project area in the EA? This kind of information needs to be disclosed and analyzed in the EA. (See EA p. 181 under “Wildlife”....There appears to be no in-depth analysis of management effects to [some of] the PETS wildlife species listed in Table 79 from the action alternatives (2 & 3). This is a violation of both NEPA and ESA requirements. (comments on DEA p. 181)

The Draft EA text referenced above re: effects to PETS species appears to be identical in the final EA except for minor shifts in text onto adjacent pages, and except for the addition of an “MIS Effects Analysis” that only pertains to Redband trout, on final EA p. 187. This addition may have been in response to our comments regarding DEA analysis of effects to Redband trout quoted below:

There is no detailed analysis in the EA considering the cumulative effects of the multiple sources of fine sediment delivery to streams from various types of management proposed, such that a “not likely to contribute toward federal listing or loss of viability to the population or species” would be supported by the analysis. The cumulative effects analysis also does not consider the multiple losses of stream shading that could be caused on multiple streams from planned CTing [commercial thinning] and NCTing and burning in RHCAs and does not quantify either loss of total shade or combined sediment inputs to streams. There is no sufficient in-depth analysis in the EA to justify the conclusion of no significant effects to fish habitat or water quality. (See EA p. 185) Weasel words like “minor” and “low” risk are used in the EA to evade the quantification of effects, such as in par.s 3 and 4 of p. 185 regarding cumulative effects to Redband trout. (comments on DEA p. 185)

The “MIS Effects Analysis” on final EA p. 187 that replaces the “Cumulative Effects” analysis in the Draft EA for Redband trout identifies some sources of fine sediment from management actions that could harm Redband trout but still makes no attempt to quantify effects. This MIS effects analysis starts with a description of the existing condition for Redband trout and other

aquatic species that increases our concerns that additional management impacts would likely further stress Redband trout and contribute to a Federal up-listing and/or loss of viability for Redband trout in the Patrick project area: “Fish habitat in the analysis area generally does not meet INFISH RMOs for pool frequency, LWD [Large Woody Debris], width to depth ratios, stream temperature and fine sediment. (see Fish and Aquatic Habitat Existing Conditions report).” (final EA p. 187) However, the conclusion of the MIS Effects Analysis section for Redband trout is that: “Project activities would not contribute to a negative trend in viability of redband trout on the Wallowa-Whitman National Forest.” (final EA p. 187) This conclusion does not appear to be substantiated or supported by the EA effects analysis for Redband trout.

Comments on effect to Threatened, Sensitive, and focal wildlife species appear on the following DEA pages:

Comments re: effects to Threatened-listed Gray wolf on DEA pp. 95, 181, and 182.

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

Comments on Sensitive Lewis’ woodpecker appear on DEA p. 181.

Comments on effects to Sensitive Columbia spotted frog appear on DEA p. 165.

Comments on effects to Sensitive Redband trout appear on DEA pages 156, 169, 183 and 185.

Comments on effects to Sensitive Western ridged mussel appear on DEA p. 183 and 187.

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.

Resolution:

Blue Mountains Biodiversity Project has 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.

Partial resolutions are by species below:

See the INFISH proposed resolution remedies under Forest Plan Violations above for Sensitive Redband trout and Columbia Spotted frog and Sensitive riparian plant species:

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 or eliminate 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, Northern goshawk, 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: Sensitive and Management Indicator Redband trout, see our comments above and under NFMA, Forest Plan Violations, INFISH violations.

Re: Western Ridged mussel, see our DEA comments on p. 187 and our resolution remedies for Redband trout, especially for preventing increases in fine sediment. The EA (in both Draft and final versions) states the following on p. 187: "Increases in fine sediment can reduce reproductive success and overall fitness of western ridge mussels."

Re: Pacific fisher:

- *Drop all commercial logging of LOS stands with suitable habitat for Pacific fisher, such as old growth moist 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 National Forest. Pacific fisher are also recorded on the Umatilla National Forest and the Deschutes National Forest, so they could also be on the Wallowa-Whitman National Forest.)

Re: Canada lynx:

- *Drop all high elevation suitable winter habitat for Canada lynx, including relatively unfragmented blocks of Lodgepole pine and larger blocks of mixed conifer at high elevation. Drop all commercial logging, "temporary" road building, and re-opening of closed roads planned for undeveloped lands. Greatly reduce or eliminate re-opening of closed roads and eliminate construction of "temporary" roads to reduce fur trapping access to lynx.

Re: Wolverine:

- *Drop all commercial logging, closed road re-opening, and "temporary" road construction in all high elevation mixed conifer forest from that may provide suitable habitat for wolverine, including within undeveloped lands and areas nearest Wilderness Areas. Greatly reduce or eliminate the re-opening of closed roads and eliminate construction of proposed "temporary" roads to reduce fur trapping access to wolverine.

Re: Sensitive plants: See our resolution remedy for invasive plant introduction and dispersal, as the same applies for protecting Sensitive plants, with the added remedy of not doing prescribed burning during the Spring reproductive season for plants.

IV. The Patrick Project Would Violate the Clean Water Act

Our comments express our concerns and position:

Potential for violating the Clean Water Act by further increasing stream temperature in 303 (d) listed streams that are listed for water temperature standard exceedance:

The analysis of stream temperature data on EA p.148 raises many concerns about further impairment of stream temperature (as well as fine sediment loading) from proposed commercial logging within RHCAs, heavy equipment use in RHCAs, and construction of "temporary" roads in RHCAs. (comments on DEA p. 148) (Re: existing high stream temperatures currently violating

standards and Riparian Management Objectives (RMOs) under INFISH/PACFISH, see DEA p. 148, par.s 2, 3, and 4) The same text is on the final EA p. 148, except that there has been a correction made, listing two streams instead of the three listed in the DEA as temperature impaired 303 (d) listed streams, and clarifying that four watersheds are listed for temperature impaired 303 (d) listed streams in the Patrick project area according to the ODEQ database (ODEQ, 2021). (Comments on DEA p. 148) The Forest Service is not allowed to further degrade a water quality condition—in this case, stream temperature—in a 303 (d) listed stream for a water quality impairment that contributed to that 303 (d) listing.

Loss of primary or secondary shading could cause increases in perennial and tributary stream water temperatures to the detriment of Redband trout and other aquatic species. The EA analysis seems to carefully neglect to assess the impact of commercial logging in RHCAs to stream temperatures. (See DEA p. 156, par. 4) There is no further degradation of stream temperatures allowed for the North Fork Burnt River and Patrick Creek because they are 303 (d) listed for impaired stream temperature under the Clean Water Act. This means that the North Fork Burnt River cannot have NCTing that would affect shading of the water way, so the 185 acres of NCTing planned would have to be reduced or eliminated to prevent violation of the Clean Water Act. Temporary increases in water temperature (3-5 years) could still be disastrous for Redband trout. (comments on DEA p. 156)

Comments on DEA p. 157: The existing larger RHCA buffers for Category 1 and 2 streams are still based on good science and should be retained for “no machine work” within the INFISH RHCA buffers. Project design criteria and Forest Plan guidelines don’t necessarily ensure no impacts to water quality from road crossings and road construction within RHCAs, as promised in the inadequate analysis.

Comments on DEA p. 169: The language used to describe loss of shading and potential increases in stream temperature in streams where closed roads are re-opened in RHCAs seems purposefully vague and cagey, avoiding quantification, such as “in a relatively small percent of RHCAs”, “local”, and “not expected to increase overall temperature in Category 1 streams.” (See EA pp. 168-169) There is no guarantee that increases in stream temperature would be minor or that mitigation would be 100% effective or even take place. Likewise, “local, short-term” increases in sediment and turbidity from culvert installations, replacements, and removals fails to quantify potential effects to streams or identify the proximity to Redband trout or other fish species.

Comments on DEA p. 171: The analysis does not really demonstrate that there would be no increase in stream temperature from the commercial logging planned for within RHCAs under Alternative 2, as shading from the outer RHCA buffer above the streams could be lost where there are steep slopes. There could also be gaps in the inner RHCA overstory canopy that currently exists that are compensated for by tall trees on upper slopes above the stream in the outer RHCA. There is no site specific analysis in the EA that disproves this. Secondary shading of streams can also be important for cool stream temperatures when primary shade trees die or fall. (These comments refute the DEA assumption that: “The measure stream temperature would be maintained in Alternative 2.” See DEA p. 171, par. 3)

Re: increased fine sediment loading into streams from proposed management actions as a potential violation of the Clean Water Act:

The EA admits that: “INFISH riparian no activity buffers described above have long been recognized as a mitigation measure to reduce sediment transport to streams.” (DEA p. 171, 4th par.) Our related comment: “The EA admits that original INFISH no activity buffers “have long been recognized as mitigation measure to reduce sediment transport to streams.” ...Yet Alt. 2 would allow INFISH violations by reducing INFISH no activity buffers, reducing their effectiveness as mitigation for management (logging, heavy equipment use) soil disturbance, erosion, and fine sediment delivery. The analysis also admits: “The effect of increasing sedimentation rates to stream channels from changes in overland flow patterns would occur” from reduced INFISH buffers in alt. 2 for logging in RHCAs. (EA p. 171, par. 5)

Comments on DEA p. 156:

Increased runoff from commercial logging in RHCAs could significantly increase fine sediment loading in the stream channel. More bare ground in RHCAs is not desirable due to potential erosion, sedimentation, and introduction and dispersal of invasive plants.

The final EA appears to be identical to the Draft EA for the pages to which our Clean Water Act comments refer, except for some slight shifting of text from page to page and two instead of three streams being 303 (d) listed based on one change in the final EA text. Both the draft EA and the almost identical Final EA give us many causes for concern that the Clean Water Act (as well as the Forest Plan re: INFISH requirements) would likely be violated. Some brief examples quoted from the final EA:

“Fine sediment levels in streams have been shown to increase as the density of roads in a watershed increase (Cederholm and Reid, 1987).” (final EA p. 168)

“Stream temperatures are high at all monitored sites in the project area, except Snow Creek downstream of the confluence with Greenhorn Creek.” (final EA p. 169)

“In the five fishbearing streams where substrate was measured and percent fines were calculated in the project area, percent fines exceeded 20%. No streams met the RMO for fines.” (final EA p. 169)

“Habitat for aquatic species in the Patrick PA is in degraded condition. High water temperatures, high fine sediment levels, fragmented habitat, and lack of habitat complexity are the existing aquatic habitat conditions (see Water Resources and Fish and Aquatic Habitat Existing Conditions report).” (final EA p. 170)

Examples of our comments regarding water quality and potential violations of the Clean Water Act appear on DEA pages 148, 156, 157, 158, 162, 164, 168, 169, 170, and 171, with some of these also quoted above under INFISH violations, under Forest Plan Violations.

Resolution

*Drop planned commercial size logging and heavy equipment use in the RHCAs.

*Aspen stand restoration-related conifer thinning up to 18” dbh which retains all conifers contributing to stream bank stability or primary shading of a stream could be done by hand, leaving all felled trees in the RHCA.

*Drop all re-opening of closed roads and construction of ‘temporary’ roads within, or adjacent to, RHCAs.

*Drop any planned logging equipment stream crossings.

*See all the resolution remedies under INFISH violations, as these are all also applicable to preventing violations of the Clean Water Act.

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 Patrick timber sale. See our related comments below:

Comments from EA p. 61:

Forestry and other land uses, at 12% of human-caused global CO₂ emissions is a major contributor to climate change, not a contribution that can be ignored. The forestry sector's emissions may have declined over the last decade, but the Forest Service is ramping them up again by greatly accelerating the pace and increasing the scale and intensity of logging. The new administration is not denying the reality of climate change and the Forest Service should pay attention to this federal policy shift and start acting on the basis of recent science supporting much greater protection of mature and old growth forest as a major natural carbon sink. The agency must be familiar with Bev Law's studies supporting preservation of forest's carbon sequestration and the many science studies supporting Suzanne Simard's research that forests are a cooperative community in which trees actively send out alerts of increasing insect threats so that the other trees will send out their chemical defenses. In other words, the Forest Service should not be cutting down and removing forest cover to "restore" the forest but should be keeping forests as intact as possible to maximize carbon sequestration to slow or reduce climate change effects and to allow the forest to protect itself and engage in self-thinning when needed. Yet instead the Forest Service plans to separate trees, disrupt soil mycelium that transfer nutrients to the trees, and engage in large scale incremental deforestation.

Further comments on the climate change analysis on EA p. 61:

Commercial thinning and prescribed fire does not really mimic natural fire effects—especially not for moist and cold forest [types]. Logging does not have similar effects to natural disturbances as it removes carbon storage and causes CO₂ emissions greater than wild fire overall. Forests in the U.S. removing 757 megatons of CO₂ from the atmosphere is reason to protect forests, not log them.

Some of the comments on the climate change analysis on EA p. 62:

The Patrick EA (and other EAs using the same language) is repeating falsehoods and perpetuating myths by not clarifying that commercially logged forest can take decades to over a century to grow back into the same level of carbon storage as mature and old growth stands that had many more trees. Likewise, the EA fails to clarify that small young trees growing back do not sequester anywhere near as much carbon as the mature or large trees removed from logging. (See EA p. 61, last par.)

The EA also fails to disclose that wood products are documented to usually only store carbon for up to a decade at most, with the limited exception being for buildings, which still may not store carbon as long as an old growth tree that then becomes a snag and later a log—still sequestering carbon. It is not clear in the science that commercial logging reduces fire severity or insect infestations, let alone tree diseases, such as root rot and mistletoe, which can be spread by logging.

In general, the EA climate change analysis is extremely biased and fails to disclose scientific controversy.

The Forest Service fails to quantify potential CO₂ and other Greenhouse gas emissions that could be produced from the proposed management actions in the Patrick sale, as well as the potential loss of carbon storage and sequestration from these proposed management actions in its climate change analysis. There is no carbon budget postulated for the Patrick project, even though such quantification and estimation are possible and should now be required for any large scale project like Patrick that could generate Greenhouse gas emissions and/or reduce carbon storage and sequestration from natural carbon sinks. (comments on DEA p. 63)

The final EA appears to have identically replicated the climate change effects analysis in the Draft EA, which still can be found on EA pages 59-63. Further comments on inadequate climate change effects can be found written on DEA p.48 and pages 60-63.

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 Patrick project.

To resolve this problem, the Forest Service needs to make the following modifications to the Patrick project, as suggested in other proposed resolution remedies above:

- * Significantly decrease the geographic scale of the Patrick 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

Karen L. Coulter, Director, Blue Mountains Biodiversity Project



