

December 19, 2022

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USDA Forest Service
Attn: Archie Creek Danger Tree Project
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Submitted electronically via: <https://cara.fs2c.usda.gov/Public//CommentInput?Project=62589>

Re: Archie Creek Roadside Danger Tree Mitigation Project

Project Description: The project pertains to fire-killed and injured trees along 64 miles of identified maintenance level 2 (ML2) roads within the burn perimeter of the Archie Creek Fire on Forest Service-managed public lands. EA at 2, 12. The proposed treatment area includes about 4,300 acres of lands adjacent to these roads where trees are expected to be fallen. The Forest Service estimates that recent fires have left thousands of dead and dying trees left standing along roads creating an elevated risk to safety. EA at 5. Reasons for treatment include but are not limited to site access, road integrity, fuel loading and fire resistance, private access, fire suppression, research needs, or access to timber sales. EA at 6, 7. Commercial treatment is proposed along 10.1 miles of roads included in the project.

Name and Title of Responsible Official:

Mark Sommer, Deputy District Ranger
USDA Forest Service
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North Umpqua and Diamond Lake Ranger Districts

Lead objector:

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Specific Issues Related to the Proposed Action:

Cascadia Wildlands and Oregon Wild (“Objectors”) respectfully submit these objections to the Archie Creek Roadside Danger Tree Mitigation Project EA/DN/FONSI, issued 11/4/2022 by the Umpqua National Forest (UNF or Forest), pursuant to 36 C.F.R. § 218.

1. Interests and Participation of objecting parties.

Cascadia Wildlands is a non-profit organization based in Eugene, Oregon, with approximately 12,000 members and supporters throughout the United States that defends and restores Cascadia’s wild ecosystems in the forests, in the courts, and in the streets. Cascadia Wildlands envisions vast old-growth forests, rivers full of salmon, wolves howling in the backcountry, and vibrant communities sustained by the unique landscapes of the Cascadia Bioregion. Cascadia Wildlands’ members have used and will continue to use the Archie Creek Roadside Danger Tree Mitigation Project area for activities such as hiking, bird watching, and other recreational and professional pursuits.

Oregon Wild is a non-profit organization with approximately 20,000 members and supporters throughout the state of Oregon and the Pacific Northwest. Oregon Wild and its members are dedicated to protecting and restoring Oregon’s lands, wildlife, and waters as an enduring legacy. Oregon Wild members use the forest areas comprising the Archie Creek Roadside Danger Tree Mitigation Project area for hiking, recreation, wildlife watching, nature appreciation, and other recreational pursuits.

Pursuant to 36 C.F.R. § 218.5(a), these groups have submitted timely, project-specific written comments during scoping and additional designated comment periods designated for the Archie Creek Roadside Danger Tree Mitigation Project, which we incorporate in their entirety by reference.

2. Issues of the decision to which objections apply

Objectors appreciate UNF’s preparation of an EA for this project to weigh the trade-offs between environmental consequences and public safety impacts. Protecting public safety is of the utmost importance; so is taking a conservative approach to post-fire logging and allowing the forest to recover so that these publicly owned landscapes may thrive for generations to come. Objectors have outstanding concerns about the final proposal regarding UNF’s National Environmental Policy Act (NEPA) review and public engagement, process, consideration of site-specific impacts, and potential impacts to water and wildlife, which are discussed in detail below.

3. Objectors identified the following parts of the EA/DN/FONSI for objection

a. Insufficient NEPA Process

Proposed action areas included in the proposal warranted a full and fair NEPA analysis with ample public input so that the FS could plan and execute a project both protective of public and employee safety *and* important ecological values. Unfortunately, there were several serious shortcomings with the NEPA process UNF followed for this project:

- The scoping notice did not provide a clear picture of its road-specific treatment plans, a core piece of the roadside risk reduction puzzle, and the initial project maps that were available during open comment periods contained inaccuracies. The public cannot provide substantive comments and the FS cannot make informed decisions without accurate site-specific information.
- Next, UNF released a Notice of Proposed Action Preliminary Effects Analysis (PEA) for the project. The information in the PEA was surface-level and woefully inadequate, especially regarding potential impacts to threatened and endangered species, promising that fuller analyses would be provided in the draft EA. Documents vaguely referenced in the PEA but heavily relied upon by UNF in its preparation of the EA were not readily available during the comment period.
- Finally, we learned that UNF did not intend to release the draft EA for public review and comment. Objectors learned this through personal communications with UNF staff; UNF did not make this plan widely known through documents posted on the project site or during the public meeting held during scoping. Despite Objectors' strong urges otherwise, UNF followed through with this plan.

These shortcomings do not comply with NEPA and seriously erode the public's confidence in the agency. While Objectors appreciate the opportunities to comment on the early planning stages of the project, the limited information provided during scoping and in the PEA did not enable the public to provide informed feedback to the agency on its environmental analysis. Relying on the objection period to accommodate feedback on the final EA is an inefficient use of time and resources and a far cry from the full and fair review process NEPA requires, especially considering the agency did not make it known during the scoping period that there would be no opportunity to comment on the full draft EA. This very well could have excluded individuals from commenting on the complete analyses included only in the EA. This process unacceptably dodged meaningful public engagement, and Objectors firmly object.

b. Inadequate Site-Specific Evaluation

NEPA's basic requirement to take a hard look and to use high quality information is violated where the EA provides inadequate analysis of pertinent issues. The APA is violated where the decisions made run counter to or are unsupported by the facts that are available.

Objectors expressed numerous concerns about the overbroad scope of the project. For example, felling trees within 1.5 tree height length on both sides of a road is overbroad. While it makes sense to allow for slide and rollout of trees felled uphill, it does not make sense to add distance on the downhill side. This overbroad approach does not represent a reasoned allowance of risk on the part of the Forest Service, as trees on the downhill side of a road more than one tree height away from its edge pose no risk to those using that road.

Objectors expressed concern over the Forest Service's inability or failure to visit greater portions of the proposed treatment areas prior to the release of the EA. Thus, Objectors worried the proposal would remain overbroad as a result. In light of this concern, Objectors made it a point to visit the project area and provide photos of numerous roads proposed for logging within the

project area along with commentary explaining why these roads should be removed from the proposal. For instance, a photo included in Objectors' comments showed that Road 017 is adjacent to an old-growth stand that is alive and well. Objectors provided similar demonstrative photographs and commentary for roads 015, 290, 010, 017, 027, 085, 410-20, 410-50, 4712, 4714-185, and 4714-355. One such road mentioned in the EA, specifically 010, involves up to a 400' wide clearcut swath into the heart of the Williams Creek IRA without any analysis of the impacts. According to the final EA, all of these roads remain in the project proposal. EA Appendix B at 136-142.

Additionally, the Forest intends to revisit roads authorized for treatment under the Archie Creek Fire Interior Roadside Danger Tree Project Categorical Exclusion and settlement agreement, which had a roadside buffer length of one tree-length. Comment Consideration Appendix at 28. Objectors expressed skepticism that this action was warranted due to concerns about the ecological impacts of the action. The EA does not provide adequate justification for UNF's plans to return to previously treated roads, which will only increase the detrimental impacts from disturbance in areas where investments to mitigate safety risks have already been made. Just because the settlement agreement did not prohibit the Forest from undertaking new projects does not mean the Forest needs to or should undertake new projects in the previously treated area. This is an inefficient and unjustified use of the Forest's limited resources.

The purpose of the proposal is to remove fire-affected trees along the road system to reduce associated risks. Therefore, it is counterintuitive to propose treatments in areas that have either already been logged or that pose little to no threat to public safety. Especially because it is well established that dead wood and snag structures provide valuable habitat, as well as essential climate mitigation and adaptation benefits, the Forest Service should be extra cautious to log only where absolutely necessary to achieve project goals.

The law demands that high quality information be used to make decisions supported by the available facts as well as garner informed feedback from the public. Here, the facts show that numerous roads within the project proposal area do not actually require any treatment to achieve project goals when balanced carefully with ecological interests. Consequently, Objectors request that the aforementioned roads be removed from the proposal.

c. Project Implementation

Objectors also expressed concerns regarding overbroad project implementation, which were addressed in part by the Forest Service. Objectors requested specification that the entity who determines what trees are to be cut should not have a financial relationship to that decision so as to avoid bias. Objectors' Comments on PEA at 22. In response, the EA states:

“The evaluation of trees would be conducted by qualified Forest Service personnel and contractors. Danger trees to be cut would be identified using the Tree Selection Criteria.”

EA at 20. The Comment Consideration Appendix elaborates:

“We expect danger trees within the project area to be mitigated through a variety of mechanisms. In some instances, trees would be selected and felled directly by Forest Service personnel. They may also be addressed through a service contract that would include requirements drafted by the Forest Service and administered and inspected by Forest Service Contracting Officers and Contracting Officer Representatives. In some areas indicated in the EA, danger trees would be mitigated using a timber sale contract. Designation of removals in timber sale contracts would meet the intent of prescriptions that abide by the Tree Selection Criteria as presented in the EA. In this case, any tree cut would adhere to specific timber contract requirements for included timber as administered by qualified Forest Service Timber Sale Administration personnel. Trees not designated as included timber within the contract would require individual approval by the Forest Service prior to felling. Trees may or may not be marked on the ground in advance of operations.

In all cases, danger trees will be felled according to the purpose and need of this project and all project design features will be followed regardless of the mechanism used to perform the work. Prescriptions and marking guidelines developed for actions under this EA will not treat more trees than are identified in the Tree Selection Criteria.”

Comment Consideration Appendix at 5.

Objectors appreciate the acknowledgement of our concern and are pleased to see that Forest Service specialists will either perform or oversee tree selection and felling for portions of the project. However, the specifications for timber sale contract implementation are still somewhat concerning when paired with the alarmingly open-ended criterion indicating that “[t]rees located between the danger tree and the road may be felled as needed to facilitate safe felling of danger trees.” Objectors encourage the Forest Service to require that agency specialists mark trees on the ground in advance of operations to help ensure that green trees in the way of danger trees will not be targeted in the project to fully eliminate potential financial bias.

d. Water Quality

The Forest Service assumes the project will have negligible impacts to water quality. FONSI at 7. Objectors commented on the need to ensure water quality impacts are minimized during and following project implementation:

“The Forest Service must fully consider the project impacts on this watershed and applicable water quality protection standards as well as which ESA-listed fish or other aquatic species will be affected by the project in its site-specific analysis.” Objectors’ Comments on PEA at 21.

“We are concerned that this proposal would allow commercial logging within Riparian Reserves. The PEA inappropriately minimizes snag habitat and shade provided by trees in riparian areas. PEA at 27. Remaining trees provide some shade for associated streams and lower water temperatures, which is beneficial for salmonids and other aquatic

species. UNF should leave as many unburned and burned trees alongside streams as possible to support water quality outcomes.” Objectors’ Comments on PEA at 22.

In regard to the project’s potential impacts to Oregon Coast coho, which is listed as threatened under the Endangered Species Act, the Oregon Department of Fish and Wildlife provided the following feedback:

“Presence of Oregon Coast coho may need to be re-assessed along lower reaches of streams such as Fall Creek, Fairview Creek, Bogus Creek, Williams Creek where riparian actions or culvert work may take place. According to the department’s fish distribution map, the department assumes these streams are coho habitat.”

ODFW Comment on PEA. In response, the Forest stated:

“All treatment activities are located upstream of documented Coho distribution. The Umpqua National Forest has stream surveys performed that includes snorkel surveys to identify fish distribution in surveyed streams. (Archie Creek Roadside Danger Tree Mitigation EA, Environmental Impacts, Fisheries and Aquatic Wildlife).”

Comment Consideration Appendix at 24. When and where exactly were these stream surveys performed? The EA does not provide this information.

The National Marine Fisheries Service’s (NMFS) 2022 5-Year Review: Summary & Evaluation of Oregon Coast Coho Salmon (2022 5-Year Review) provided a dismal outlook for the Umpqua Biogeographic Stratum of Oregon Coast coho salmon. NMFS stated: “The North and South Umpqua populations have low confidence of meeting persistence criteria.” 2022 5-Year Review at 20. The Forest should heed ODFW’s suggestion to re-assess Oregon Coast coho presence in the project area to ensure the project will not make matters worse for downstream populations.

Numerous waterways in the project area are listed as impaired per Clean Water Act standards. Ongoing inadequate water temperatures were noted as an issue of concern for the Umpqua population. 5-Year Review at 43. The EA states:

“Wright Creek is listed for temperature year-round, and William Creek and Panther Creek are listed for temperature during spawning and year-round. Canton Creek, Steamboat Creek, and the North Umpqua River in the project area are also listed for temperature during spawning and year-round.”

EA at 152. However, Objectors note that the EA refers to an outdated Integrated Report for Water Quality. The 2022 Integrated Report was approved by the U.S. Environmental Protection Agency on Sep. 1, 2022; that report is now current and in effect.¹ Additionally, the Forest acknowledge but opted not to consider temperature in its analysis of direct effects based solely on the project’s maintenance of standing live trees in riparian reserves. This inappropriately minimized the value snag habitat and shade provide for riparian areas and failed to account for

¹ <https://www.oregon.gov/deq/wq/Pages/epaApprovedIR.aspx>

potential benefits of increased tree retention. The Forest should utilize the most up-to-date report in its analysis and evaluate and mitigate potential water quality impacts of the project, including temperature.

e. Wildlife

Objectors expressed concern about the project's analysis of risks to wildlife. Regarding northern spotted owls in the project area, Objectors requested that the Forest Service consider "all of the ways in which this particular project could harm threatened spotted owls by increasing forest fragmentation." Objectors' Comments on PEA at 20. ODFW expressed similar concerns, noting that "[s]alvage activities have the potential to affect habitat connectivity in severely burned areas where substantial tree removal will occur" and urging the Forest to strategically retain cover near wildlife travel corridors and crossings. Comment Consideration Appendix at 30. The Forest responded:

"In areas where commercial harvest is proposed, canopy cover was completely removed by fire and there is no nesting, roosting and foraging habitat in proximity to these areas (see Environmental Impacts Terrestrial Wildlife section of the EA for more information about spotted owls). For this reason, the treatments to fall and remove dead trees is not expected to contribute to habitat fragmentation because this habitat is not able to support spotted owls including dispersal opportunities across the landscape." Comment Consideration Appendix at 31.

Objectors disagree with this assumption. U.S. Fish and Wildlife Service recognized the natural role of fire in developing and maintaining complex habitat supporting spotted owls and diverse prey species in its 2011 Revised Recovery Plan for the Northern Spotted Owl (Recovery Plan).² The Recovery Plan stated:

"There is evidence of spotted owls occupying territories that have been burned by fires of all severities. The limited data on spotted owl use of burned areas seems to indicate that different fire severities may provide for different functions. For example, spotted owls appear to select high severity burns for foraging, but avoid roosting or nesting in these sites."

Recovery Plan at III-31. The Forest should fully analyze habitat fragmentation impacts and ensure fragmentation is minimized and mitigated to support recovery of the species.

Objectors also noted concerns regarding the Forest Service's reliance upon a Supplemental Information Report (SIR) prepared for a separate project, the Calf Copeland project, to avoid conducting surveys for and buffering red tree vole nest sites as required under the NWFP. Objectors' Comments on PEA at 20. This is inappropriate. Any determination of non-high priority status needs to be done at the site-specific level and needs to be informed by project

² https://ecos.fws.gov/docs/recovery_plan/RevisedNSORecPlan2011_1.pdf

level surveys. Attempting to rely on another project's non-high priority determination violates all the regulations pertaining to survey and manage and red tree voles specifically.

The agency is illegally circumventing red tree vole requirements to survey and manage sites. The final EA states:

“Surveys were not conducted for the Archie Creek project based on the criteria listed above from the Survey Protocol for the Red Tree Vole (Marks-Fife, 2022). Although this project is within the mesic survey zone and activities will occur within suitable habitat, the proposed activities are not likely to have a significant negative impact on the species' habitat, life cycle, microclimate, or life support requirements that would affect red tree vole persistence within the treatment areas.”

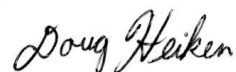
EA at 85. This cannot be declared categorically, especially when the project involves logging, which is the activity that has led to species listing. Furthermore, the Forest Service attempts to excuse the lack of surveys by citing survey protocol exempting certain activities as not habitat-disturbing activity. Commercial logging is not an exempted activity. The Forest Service should obtain accurate survey data in order to make informed decisions about wildlife and habitat protection.

Conclusion:

Thank you for considering this objection. We appreciate your work developing this analysis and look forward to the objection resolution process.



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