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December 2, 2022

District Ranger Michele Holman
Siuslaw National Forest
Central Coast Ranger District – Oregon Dunes National Recreation Area
1130 Forestry Way
Waldport, OR 97394

Re: North Fork Smith River Restoration Project

Dear District Ranger Holman:

WildEarth Guardians respectfully submits these comments regarding the U.S. Forest Service’s proposed North Fork Smith River Restoration Project on approximately 39,430 acres within the Siuslaw National Forest. The overarching purpose of the project is to “foster the development of late successional reserve forests and to improve the aquatics resources in the North Fork of the Smith River vicinity.” While the Forest Service has not yet identified any specific actions, the agency says that similar projects in the past have included plantation thinning, road improvement/decommissioning, wildlife/aquatic habitat improvement, and non-native invasive plant treatments.

WildEarth Guardians is a nonprofit conservation organization with offices in Oregon, Washington, and five other states. WildEarth Guardians has nearly 200,000 members and supporters across the United States and works to protect and restore wildlife, wild places, wild rivers, and the health of the American West. WildEarth Guardians and its members have specific interests in the health and resilience of public lands and waterways. Please add our organization to the contact list to receive any future public notices regarding this project.

We have the following comments to share:

I. As part of the analysis, the Forest Service must prioritize unneeded roads decommissioning.

Over twenty years ago, the Forest Service recognized the challenges related to its oversized and deteriorating road system. In 2001, the Forest Service promulgated the Roads Rule (referred to as “subpart A”).¹ The Roads Rule created two important obligations for the agency. One obligation is to complete a Travel Analysis Report and identify unneeded roads to prioritize for

¹ 36 C.F.R. part 212, subpart A. 66 Fed. Reg. 3206 (Jan. 12, 2001).

decommissioning or to be considered for other uses.² Another obligation is to identify the minimum road system (MRS) needed for safe and efficient travel and for the protection, management, and use of National Forest system lands.³

After being selected in 2011 as a pilot forest to implement Subpart A, the Siuslaw National Forest took the first step and completed a travel analysis report (TAR) in 2014.⁴ According to the TAR, the Forest Service manages 2,143 miles of roads on the Siuslaw National Forest.⁵ Importantly, the Forest Service recognized at least as far back as the early 1990s that the Siuslaw National Forest “would need to reduce its open road network to less than 1,000 miles from the then-current 2,500 miles.”⁶ How much progress has the Forest Service made toward its goal of reducing the road network in the Siuslaw National Forest to less than 1,000 miles?

The next step under subpart A is to consider the valid portions of the TAR and begin to identify and implement the minimum road system in the analysis of site-specific projects of the appropriate geographic size under NEPA.⁷ The minimum road system is the road system the Forest Service determines is needed to:

- “meet resource and other management objectives adopted in the relevant land and resource management plan”;
- “meet applicable statutory and regulatory requirements”;
- “reflect long-term funding expectations”; and
- “ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.”⁸

According to the TAR, the Forest Service reviewed previous transportation analyses and “validated” that the “Key Road system” from those analyses would serve as the Siuslaw National Forest’s MRS for purposes of Subpart A.⁹ Can the Forest Service confirm that this is still accurate and that the Key Road system is the MRS for the Siuslaw National Forest? The Forest Service identified 609 miles of Key Roads in the TAR.¹⁰ This leaves 1,534 miles of Non-Key Roads that are not part of the MRS.

² 36 C.F.R. § 212.5(b)(2).

³ *Id.* § 212.5(b)(1).

⁴ U.S. Forest Serv., *Siuslaw National Forest 2014 Travel Analysis Report*, 8 (Mar. 2014).

⁵ *Id.* at 11.

⁶ *Id.* at 12.

⁷ See Memorandum from Leslie Weldon to Regional Foresters on Travel Management, Implementation of 36 C.F.R., Part 212, Subpart A (Mar. 29, 2012) (Weldon Memo), page 2 (directing forests to “analyze the proposed action and alternatives in terms of whether, per 36 CFR 212.5(b)(1), the resulting [road] system is needed”).

⁸ 36 C.F.R. §212.5(b)(1).

⁹ TAR at 8.

¹⁰ *Id.* at 20.

Subpart A directs the agency to “identify the roads on lands under Forest Service jurisdiction that are no longer needed,” and therefore should be closed or decommissioned.¹¹ The rule refers to all roads, not just National Forest System roads. The rules define a road as “[a] motor vehicle travelway over 50 inches wide, unless designated and managed as a trail.”¹² The Forest Service must assess these proposed actions in relation to the risks and benefits analysis in the TAR, as well as the MRS factors, with the goal of minimizing adverse environmental impacts.

The impacts from roads to water, fish, wildlife, and ecosystems are well documented in scientific literature. The following is just a small list of examples:

- Increased sedimentation in stream beds has been linked to decreased fry emergence, decreased juvenile densities, loss of winter carrying capacity, and increased predation of fishes, and reductions in macro-invertebrate populations that are a food source to many fish species (Rhodes et al. 1994, Joslin and Youmans 1999, Gucinski et al. 2000, Endicott 2008).
- Roads can act as barriers to [fish] migration (Gucinski et al. 2000). Culverts in particular often interfere with sediment transport and channel processes such that the road/stream crossing becomes a barrier for fish and aquatic species movement up and down stream.
- Where both stream and road densities are high, the incidence of connections between roads and streams can also be expected to be high, resulting in more common and pronounced effects of roads on streams (Gucinski et al. 2000).
- Roads and trails impact wildlife through a number of mechanisms including: direct mortality (poaching, hunting/trapping) changes in movement and habitat use patterns (disturbance/avoidance), as well as indirect impacts including alteration of the adjacent habitat and interference with predatory/prey relationships (Wisdom et al. 2000, Trombulak and Frissell 2000).
- Forman and Hersperger (1996) found that in order to maintain a naturally functioning landscape with sustained populations of large mammals (such as elk), road density must be below 0.6 km/km² (1.0 mi/mi²).

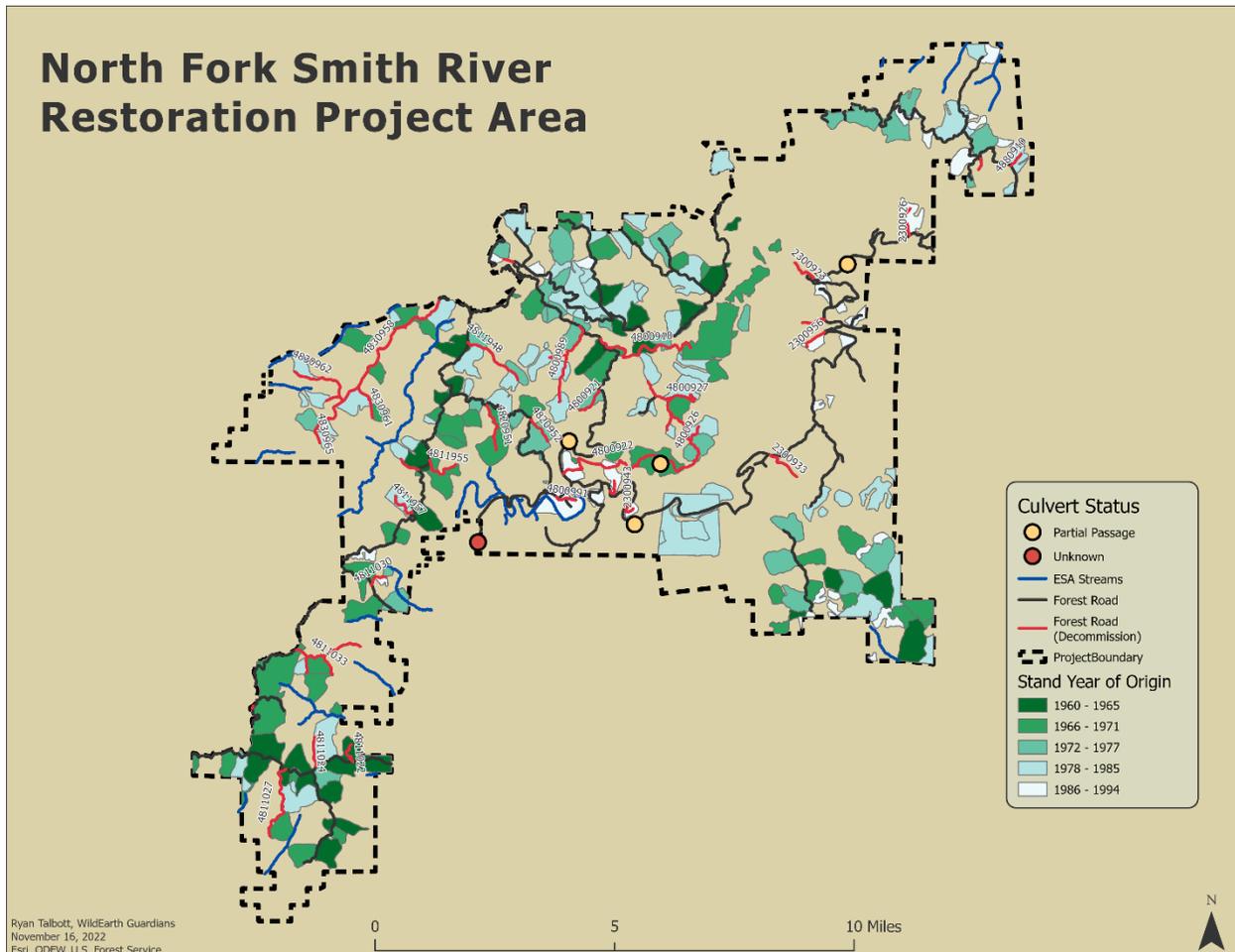
In order to eliminate or reduce the impacts to fish and wildlife, the Forest Service must take steps to reduce environmental impacts related to its road system.

Local communities and visiting recreationists are also impacted by the oversized, under-maintained and underfunded road system. Since roads are not regularly maintained or upgraded, they are highly susceptible to storms. Small culverts become plugged with debris, forcing water over the road and often resulting in the road getting washed out. Gullies can form along roadbeds making it difficult to drive a car on the road. This “storm damage” can eliminate access and often takes years to fix, if it ever gets fixed at all. In order to ensure access to beloved trails, campsites, fishing and swimming holes, etc., the Forest Service should target limited road maintenance funding to high-priority recreation/community access roads.

¹¹ 36 C.F.R. § 212.5(b)(2). *See also* *Ctr. For Sierra Nevada*, 832 F. Supp. 2d at 1155 (“The court agrees that during the Subpart A analysis the Forest Service will need to evaluate all roads, including any previously designated as open under subpart B, for decommissioning.”).

¹² 36 C.F.R. § 212.1

We believe that decommissioning roads and other road-related activities to improve water quality and aquatic organism passage can move the forest towards a more economical and storm resilient road system. The map below identifies roads that the Forest Service has set an objective for decommissioning within the project area.¹³



There are at least approximately 27.9 miles of roads within the project area that the Forest Service has identified for decommissioning.¹⁴ The Forest Service should disclose the current status of these roads and prioritize decommissioning them as part of this project if they have not already been decommissioned. There are also several culverts in the project area that either have only partial passage for aquatic organisms or their status is unknown. We encourage the Forest Service to include needed culvert replacement as part of the project. We will look for more information on road-related proposals as the project develops and expect to see the incorporation of the TAR into the draft environmental analysis, along with reasoning if decisions are made that are different from the recommendations in the report.

¹³ U.S. Forest Service, National Forest System Roads, <https://data.fs.usda.gov/geodata/edw/datasets.php> (last updated Nov. 13, 2022).

¹⁴ The attached spreadsheet identifies these roads.

II. The Forest Service should prepare a robust environmental analysis under NEPA.

The Forest Service should prepare a robust environmental analysis for the North Fork Smith River Restoration Project, ensuring that it takes NEPA's required "hard look." The agency may not ignore topics if the information is uncertain or unknown. Where information is lacking or uncertain, the Forest Service must make clear that the information is lacking, the relevance of the information to the evaluation of foreseeable significant adverse effects, summarize the existing science, and provide its own evaluation based on theoretical approaches.¹⁵

- a. The Forest Service should clearly articulate the statement of purpose to include its duty to identify the minimum road system, and provide support for the claimed need.**

The Forest Service must shape the project's purpose and need statement according to applicable statutory and regulatory requirements. When the agency takes an action "pursuant to a specific statute, the statutory objectives of the project serve as a guide by which to determine the reasonableness of objectives outlined in an EIS."¹⁶ The Forest Service has a substantive duty to decommission roads that it has identified as no longer needed.¹⁷ This underlying substantive duty must inform the scope of and be included in the agency's NEPA analysis.

- b. The Forest Service should accurately define the official road network as the baseline for the NEPA analysis.**

The baseline and no-action alternative can differ.¹⁸ Current management direction does not compel the Forest Service to recognize decommissioned roads and unauthorized roads as part of the road system. Disclosure of the number and location of decommissioned routes and unauthorized routes, as well as the impacts of those routes, is a necessary component of the no-action alternative. But it is separate and distinct from the identification of the baseline, which should be the official open route system.

In addition, it is helpful for public understanding to have clearly articulated which roads proposed for closure and decommissioning are already not drivable by the public due to lack of maintenance, road wash-outs and storm damage. "On paper" there may be over 2,143 miles of system roads but "in the forest" those roads may not be open due to administrative decisions or simply because of the physical reality (washouts, poor roads, vegetation, etc. eliminating access). It is incumbent upon the Forest Service to accurately describe the road network now, what is planned for the future and why those steps will be taken.

¹⁵ 40 C.F.R. § 1502.22.

¹⁶ *Westlands Water Dist. v. U.S. Dept. of Interior*, 376 F.3d 853, 866 (9th Cir. 2004).

¹⁷ See 36 C.F.R. 212.5.

¹⁸ See e.g., FSH 1909.15, 14.2; Council on Environmental Quality's (CEQ) Forty Most Asked Questions (1981), #3 (explaining "[t]here are two distinct interpretations of 'no action'"; one is "'no change' from current management direction or level of management intensity," and the other is if "the proposed activity would not take place").

- c. **The Forest Service must consider a broad array of impacts related to forest roads in its NEPA analysis.**

Impacts from Forest Roads

As stated above, the best available science shows that roads cause significant adverse impacts to National Forest resources. Erosion, compaction, and other alterations in forest geomorphology and hydrology associated with roads seriously impair water quality and aquatic species viability. Roads disturb and fragment wildlife habitat, altering species distribution, interfering with critical life functions such as feeding, breeding, and nesting, and resulting in loss of biodiversity. Roads facilitate increased human intrusion into sensitive areas, resulting in poaching of rare plants and animals, human-ignited wildfires, introduction of exotic species, and damage to archaeological resources.

We will look to see if the Forest Service outlines a range of activities focused on reducing road impacts, as part of its draft environmental analysis. These activities should include road maintenance, installation of BMPs, culvert replacements, hydrologically-disconnecting roads from streams, fish passage improvements, appropriate road closures (sometimes seasonal) and road decommissioning which can all be beneficial to wildlife, water quality, aquatic species and forest users if properly considered and implemented. As this project moves forward, we ask that the Forest Service ensure that activities on the ground result in changes to the current net negative impacts from these roads.

Climate Change and Forest Roads

Climate change intensifies the impacts associated with roads. The Forest Service must include existing and reasonably foreseeable climate change impacts as part of the affected environment, assessed as part of the agency's hard look at impacts, and integrated into *each* of the alternatives, including the no action alternative. The Forest Service has a substantive duty to establish resilient ecosystems in the face of climate change.¹⁹ The Forest Service should analyze in detail the impact of climate change on forest roads and resources. Removing culverts, improving stream/road crossings, upgrading culverts are all very important activities that can increase resiliency to climate change impacts. We encourage the Forest Service to consider climate change impacts – especially related to increasing storm intensity – to ensure that culverts are large enough and/or stream crossings are appropriately designed.

¹⁹ See e.g., FSM 2020.2(2) (directing forests to “[r]estore and maintain resilient ecosystems that will have greater capacity to withstand stressors and recover from disturbances, especially those under changing and uncertain environmental conditions and extreme weather events”); FSM 2020.3(4) (“[E]cological restoration should be integrated into resource management programs and projects . . . Primary elements of an integrated approach are identification and elimination or reduction of stressors that degrade or impair ecological integrity”).

d. The Forest Service should identify the protection and restoration of roadless and unroaded areas in its purpose and need for the project.

Identifying roadless and unroaded areas for protection and restoration goes hand-in-hand with the “restoration” focus of the project. In 1995, the Forest Service identified the Key Watershed portions of the Smith and North Fork Smith Rivers (which includes much of the project area) as “one of the 5 areas of the Siuslaw National Forest with relatively high proportions of mature conifer forest and relatively low road density with the best potential for recovery of unbroken late-seral forest communities.”²⁰ The current condition of the project area is “fragmented but wild” with approximately 70 percent of the project area considered a natural mix of mature conifer/hardwood forest and the remaining 30 percent as young conifer plantations.²¹

The Forest Service should identify roadless/unroaded areas within and adjacent to the project area that may be impacted by the project and could be restored and/or expanded through project implementation. For example, there could be areas that are currently roaded but, through decommissioning, could be transitioned to an unroaded landscape that could improve both terrestrial and aquatic habitat and reduce maintenance budgets.

III. The Forest Service must take a hard look at proposed road construction and should not construct temporary roads. If avoidance is impossible, the roads should be immediately reclaimed after use.

We encourage the Forest to take a hard look at the proposed construction of temporary roads and reconstruction of existing roads to be certain that it is needed. Though we understand that Forest Service policy is that temporary road beds be restored to a natural condition after the project, there is still an impact when they are developed. In addition to their hydrologic impact, roads fragment habitat, disturb wildlife, invite more noxious weeds and increase fire danger. Also, if they are not properly rehabilitated post-project, they can invite illegal incursions and more damage to natural resources. At minimum, we ask that the Forest Service restore these segments as soon as the project activities are completed. In addition, we ask that the segments are monitored and enforcement actions taken to ensure proper closure.

IV. The Forest Service must protect mature and old-growth forests and should identify timber stands and provide GIS data on the project webpage.

On Earth Day 2022, the Biden administration announced a policy to “conserve America’s mature and old-growth forests on Federal lands” and ordered the Secretary of Agriculture to “define, identify, and complete an inventory of old-growth and mature forests” on National Forest System lands by Earth Day 2023.²² Such lands within the project area should be identified and included in the Forest Service’s inventory and set aside from active silvicultural management until the agency has the opportunity to “develop policies . . . to institutionalize climate-smart management

²⁰ Pre-scoping Notice, Introduction, Settings, and Background at 15.

²¹ Pre-scoping Notice, Potential Vegetation Management at 5.

²² Exec. Order No. 14,072, 87 Fed. Reg. 24,851 (Apr. 27, 2022). The Secretary of the Interior must also comply with this mandate for lands managed by the Bureau of Land Management.

and conservation strategies that address threats to mature and old-growth forests on Federal lands.”²³

Conclusion

As conservationists and visitors to the Siuslaw National Forest, we use the roads and trails but also recognize the harm that aging and unmaintained roads cause. The Forest Service’s current road system is oversized for current uses, unaffordable with current budgets and causing significant harm to wildlife and aquatic species. In addition, unmaintained roads are impacting access when storms take out roads.

A road system that is too large for current budgets can lead to unplanned road closures, often to key recreational destinations, because of lack of road maintenance. We are certain that with thoughtful planning and clear communication, the Siuslaw National Forest staff can work toward reducing its road system to the less than 1,000 miles called for in the TAR. This endeavor to identify and manage a sustainable road network is one of the most important efforts the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, ensure reliable recreational and community access, and lower operating expenses.

If you have questions, please contact us.

Sincerely,



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²³ Exec. Order No. 14,072, 87 Fed. Reg. 24,851 (Apr. 27, 2022).