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Submitted electronically via US Forest Service NEPA Projects Home (usda.gov)

Christopher Mattrick, District Ranger
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RE: Telephone Gap Integrated Resource Project #60192- Notice of Proposed Action and Opportunity to Comment – Green Mountain National Forest - Rochester and Middlebury Ranger Districts

Dear Mr. Mattrick:

Friends of Animals submits this scoping comment in response to the United States Department of Agriculture Forest Service’s (Forest Service) “Notice of Proposed Action and Opportunity to Comment” (Notice) related to the “Telephone Gap Integrated Resource Project” (Project) located in the Green Mountain National Forest in the Rochester and Middlebury Ranger Districts, issued on January 27, 2023. Friends of Animals is a non-profit international advocacy organization incorporated in the state of New York since 1957. Friends of Animals has nearly 200,000 members worldwide, including in Vermont. Friends of Animals, and its members, seek to free animals from cruelty and exploitation around the world, and to promote a respectful view of non-human, free-living and domestic animals and wildlife throughout the world, promoting a healthy global environment.

FACTUAL BACKGROUND

On April 22, 2022, President Joe Biden issued Executive Order 14072 titled “Executive Order on Strengthening the Nation’s Forests, Communities, and Local Economies.”¹ At the core of the Executive Order is protecting and strengthening America’s forests, including the increasingly endangered and threatened mature and old-growth forests. As the Executive Order states, “[f]orests provide clean air and water, sustain the plant and animal life fundamental to combating the global climate and biodiversity crises,

¹ Executive Order No. 14072, FR 87, No. 81, 24851 (2022).

and hold special importance to Tribal Nations.”² The Executive Order continues “[g]lobally, forests represent some of the most biodiverse parts of our planet and plan an irreplaceable role in reaching net-zero greenhouse gas emissions.”³ Approximately 30 percent of the annual carbon dioxide emissions from human activities are absorbed by the terrestrial carbon sinks provided by forests. And in the United States, “forests absorb more than 10 percent of the annual . . . economy-wide greenhouse gas emissions.”⁴

Contrary to this Executive Order, the Forest Service is proposing to eliminate almost 12,000 acres of forest in the Green Mountain National Forest, including stands of irreplaceable mature and old-growth trees. In doing so, the Forest Service continues with the misguided principal that the only way to “manage” forests is turn the forests into timber resources, rather than focusing on protecting the trees and supporting their vital role in strong biodiversity and a healthy environment.

In the Notice, the Forest Service states it will determine whether the Telephone Gap Project “complies with Forest Plan direction including Forest-wide and Management Area standards and guidelines” and whether “a finding of no significant impact or an environmental impact statement is warranted based on the disclosure of effects in the environmental assessment.”⁵ The Forest Service will then determine whether to proceed as proposed or in an alternative form, possible mitigation measures to “ensure resource protection,” and whether monitoring requirements are needed.⁶

Friends of Animals strongly encourages the Forest Service to include in the scope of its analysis an alternative of “no action taken,” in which the status quo remains, old growth and mature forests are protected, and the conservation dictated by President Biden’s Executive Order is followed. The scope of the Forest Service’s analysis of the Telephone Gap Project should include, as first and foremost, an alternative in which no logging occurs, and forest protection is paramount.

DISCUSSION

The scope of the Forest Service’s analysis must include a number of issues related to logging, particularly in areas with a wealth of mature and old-growth trees. The forests are the lungs of the environment and play a critical and irreplaceable role in ecological health and biodiversity. Logging approximately 12,000 acres of forest land will result in the removal of countless mature and old-growth trees, which cannot be replaced without decades and even centuries of growth. Logging not only removes trees that are vital to the ecosystem, but adversely affects the species of animals in the region, causes erosion and

² Executive Order No. 14072, FR 87, No. 81, 24851 (2022).

³ Executive Order No. 14072, FR 87, No. 81, 24851 (2022).

⁴ Executive Order No. 14072, FR 87, No. 81, 24851 (2022).

⁵ United States Department of Agriculture, Forest Service, *Telephone Gap Integrated Resource Project Notice of Proposed Action and Opportunity to Comment*, January 2023.

⁶ Project Notice p. 5.

water degradation in the logged area, and removes a key source of carbon absorption and storage at a time when we are experiencing a global climate change crisis.

The Forest Service states in the Notice that carbon storage will continue after felling, through wood and paper products produced from the logged trees. This is the same justification the lumber manufacturing industry uses to justify continued logging, including mature and old-growth trees.⁷ However, this short-sighted approach addresses only the storage of carbon, failing to acknowledge the critical importance of capturing and absorbing carbon, which occurs through the photosynthesis process in living trees, and not manufactured wood-based products. It also fails to address the amount of carbon that is released when living trees are logged. In the scope of the Forest Service's assessment, the levels of carbon captured, released, and stored must be analyzed as a comprehensive picture that properly addresses the benefits of protecting trees, including mature and old-growth stands.

The consequences of logging mature and old-growth forests are well-documented. The Forest Service must take a hard look at all consequences of logging and consider various alternatives when performing the environmental assessment for the Project. In analyzing the environmental impacts of the Project and considering the scope of the analysis, the Forest Service must consider the adverse effects and the compliance that is required with, at a minimum, the following laws.

A. National Environmental Policy Act

In 1970, Congress enacted the National Environmental Policy Act (NEPA), which requires an agency to conduct an environmental assessment (EA) and prepare an environmental impact statement (EIS) or finding of no significant impact (FONSI) prior to taking action significantly affecting the quality of the human environment. The EIS must analyze: "(i) the environmental impact of the proposed action, (ii) any adverse environmental effects which cannot be avoided should the [proposed action] be implemented, [and] (iii) alternatives to the proposed action."⁸ When drafting an EIS the agency must evaluate all potential environmental impacts of the proposed action.⁹ The agency must: (1) analyze all reasonable alternatives to the proposed action, and (2) identify and disclose to the public all foreseeable impacts of the proposed action, including direct, indirect, and cumulative impacts.¹⁰ When drafting an EA or EIS, the Forest Service must take "a hard look" at the impacts of an action prior to making a final decision.¹¹ NEPA

⁷ Northeastern Logging Manufacturers Association (NELMA), *Long Lived Wood Products Can Benefit the Climate Even More Than We Thought*, <https://nelma.org/long-lived-wood-products-can-benefit-the-climate-even-more-than-we-thought> (accessed March 9, 2023).

⁸ 42 U.S.C. § 4332(2)(C).

⁹ 42 U.S.C. § 4332(2)(C).

¹⁰ *Id.* § 4332(2); 40 C.F.R. §§ 1508.7-1508.8, 1508.9(b).

¹¹ *Baltimore Gas & Elec. Co. v. Natural Res. Defense Council*, 462 U.S. 87, 97-98 (1983).

requires the agency to adequately evaluate all potential environmental impacts of proposed action.¹² To satisfy this obligation, the agency must identify and disclose to the public all foreseeable impacts of the proposed action, including direct, indirect, and cumulative impacts.¹³

Based upon the Notice, the Forest Service is following NEPA and analyzing whether the Telephone Gap Project “complies with Forest Plan direction to include Forest-wide and Management Area standards and guidelines” and whether “a finding of no significant impact or an environmental impact statement is warranted based on the disclosure of effects in the environmental assessment.”¹⁴ Removal of approximately 12,000 acres of forest land will undoubtedly have a significant environmental impact, affecting the immediate biodiversity and species in the Green Mountain National Forest, as well as having an impact beyond the immediate area through removal of a vital carbon storage source in the battle against climate change.

The foreseeable and well-documented impacts of the Telephone Gap Project in the Green Mountain National Forest include: 1) removal of a valuable resource for carbon capture, absorption and storage; 2) removal of a valuable resource that supports a critical habitat for many species; 3) removal of old-growth and mature trees that are more resistant to wild fires, more resilient to drought conditions, and absorb and store more carbon than younger trees; and 4) damage to the biodiversity of the Green Mountain by removing an element that is critical to a healthy ecosystem, including the species and habitats in the region. Adverse effects will also occur from logging operations used to remove trees, including building or expanding roads to transport people, equipment, and logged trees. The Forest Service should include in the scope of the analysis the effects on the environment, species, and habitats from any logging operations and related activities.

It is imperative the Forest Service use the NEPA process to take a “hard look” at the impacts of logging operations within a scope of analysis that aligns with President Biden’s proclamation that protection of our old-growth and mature forests is a paramount concern. Friends of Animals requests that after the Forest Service’s analysis, a “no action” alternative be selected as the most beneficial to the human environment.

B. Endangered Species Act

Congress passed the Endangered Species Act (ESA) in 1973 to promote “the conservation of threatened and endangered plants and animals and the habitats in which they are found.”¹⁵ In enacting the ESA, Congress intended “to halt and reverse the trend

¹² 42 U.S.C. § 4332(2)(C).

¹³ 42 U.S.C. § 4332(2); 40 C.F.R. §§ 1508.7-1508.8.

¹⁴ Project Notice, p. 5.

¹⁵ Environmental Protection Agency, *Summary of the Endangered Species Act*, <https://www.epa.gov/laws-regulations/summary-endangered-species-act> (last updated September 12, 2022).

towards species extinction, whatever the cost.”¹⁶ The ESA requires federal agencies to ensure agency actions do not jeopardize a species or “result in the destruction or adverse modification of designated critical habitat of such species.”¹⁷ The ESA also prohibits the taking of a listed animal without a permit. Taking is defined as “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.”¹⁸

In the Notice, the Forest Service noted multiple threatened and endangered species in the Green Mountain National Forest and in the area of the Project.¹⁹ Specifically, the Notice lists the endangered Indiana bat and the threatened northern long-eared bat.²⁰ The list also includes the tricolored bat, which has been proposed for listing as a threatened species.²¹ While these species are listed as those that inhabit the area of the Project, the Forest Service should include in the scope of analysis a broader spectrum of species and habitats. Logging will have effects that will go outside of the Project area, through the effects on climate change and soil erosion and the loss of habitat in general for species, including migratory bird species, fish, and amphibious creatures. The Forest Service should analyze the effects logging will have on all species and habitats, regardless of whether such species and habitats have been designated for endangered or threatened species status. This includes the numerous sensitive animal and plant species listed as Regional Forester’s Sensitive Species, which the Forest Service should consider in its updated form when updated in June, 2023.²²

There is no question that logging approximately 12,000 acres of trees, including stands of mature and old-growth trees, will irreparably harm species and ecosystems in the Project area and beyond the Green Mountain National Forest ecosystem. The best action is an alternative in which no action is taken, and the status quo remains. The “no action” alternative must be considered within the scope of the Forest Service’s analysis as the best alternative to protect the forests, species, and habitats in and outside of the Project area, as well as being in line with the mandate presented to the Forest Service by President Biden’s Executive Order.

CONCLUSION

Friends of Animals thanks the Forest Service for the opportunity to comment on the scope of review and analysis to be used when conducting the required analysis for the Telephone Gap Project. Friends of Animals urges the Forest Service to thoroughly analyze all potential impacts of logging approximately 12,000 acres of heavily wooded forest land,

¹⁶ *Tennessee Valley Authority v. Hill*, 437 U.S. 153 (1978).

¹⁷ Environmental Protection Agency, *Summary of the Endangered Species Act*, <https://www.epa.gov/laws-regulations/summary-endangered-species-act> (last updated September 12, 2022).

¹⁸ 16 U.S.C. 1532(19).

¹⁹ Project Notice p. 34.

²⁰ Project Notice p. 34.

²¹ Project Notice p. 34.

²² Project Notice p. 34-35.

including many acres and stands of mature and old-growth trees. Such trees are critical in carbon capture, absorption, and storage, fire resistance, and in promoting a healthy and diverse ecosystem. Friends of Animals urges the Forest Service to analyze all potential environmental impacts closely, and strongly supports the Forest Service concluding that no logging is the best solution for the Green Mountain National Forest specifically and the environment in general.

Thank you for the opportunity to comment, and please contact me if you have any question or concerns.

Sincerely,
Rob Huss
Senior Attorney
Friends of Animals
Wildlife Law Program