



May 5, 2023

Stanislaus National Forest
Attn: STF Hazard Tree
19777 Greenley Road
Sonora, CA 95370

Sent via: <https://cara.fs2c.usda.gov/Public/CommentInput?Project=63553>

Re: Scoping comments on the Stanislaus National Forest Hazard Tree Management Project (<https://www.fs.usda.gov/project/stanislaus/?project=63553>)

To the Interdisciplinary Team:

These comments are submitted on behalf of Sierra Forest Legacy, Sierra Club, Lassen Forest Preservation Group, California Native Plant Society, Defenders of Wildlife, Sierra Foothills Audubon Society, and CalWild. We have reviewed the determination of NEPA adequacy (DNA) prepared for the Stanislaus National Forest Hazard Tree Management Project ("STF Project"). This project relies on the environmental assessment completed for the Region 5 Southern Sierra Zone Post-Disturbance Hazardous Tree Management Project ("R5 Project") to satisfy the requirements of the National Environmental Policy Act (NEPA).

The Forest Service's use of a DNA to satisfy the requirements of NEPA is governed by 36 CFR 220.4(j), which states that:

The responsible official must determine and document that each of the following elements is met:

- (i) The new proposed action is substantially the same as a previously analyzed proposed action or alternative analyzed in detail in the existing NEPA analysis.
- (ii) The range of alternatives analyzed in the existing NEPA document(s) is appropriate with respect to the new proposed action.
- (iii) Any new information or circumstances relevant to environmental concerns would not substantially change the analysis in an existing NEPA document(s).
- (iv) The environmental effects that would result from implementation of the new proposed action are similar to those analyzed in the existing NEPA document(s).

Each one of these requirements must be independently fulfilled. If even one cannot be fulfilled, the project cannot proceed under a DNA. As we will describe in detail below, the DNA prepared for the STF Project does not meet requirements (i), (ii), and (iv) and cannot be used to comply with NEPA for this project.

We conclude that a DNA is not appropriate for the STF Project and ask that a stand-alone environmental analysis (i.e., non-DNA) be prepared for this project and a draft be circulated for notice and comment.

I. The Proposed Action for the SFT Project Is Not Substantially the Same as Analyzed in the R5 Project EA.

There are a number of factors that are substantially different between the proposed STF Project and the R5 Project, demonstrating that the requirement of 36 CFR 220.4(j)(1)(i) cannot be met.

A. Project Location in Burned (R5 Project) versus Unburned (STF Project) Forests

The R5 Project was designed to address the removal of hazard trees following wildfire. The Project focuses the removal of hazard trees in areas burned at high severity (USDA Forest Service 2022, p. 27, “the vast majority of treatment would occur along roads in areas burned at high severity”) with most treatment occurring “within approximately 2 to 3 years following the decision” (USDA Forest Service 2022, p. 5). Furthermore, the geographic footprint for the R5 Project was confined to 7 wildfires that had burned in 2020 and 2021 (USDA Forest Service 2022, p. 8). In contrast, the STF Project proposes to remove hazard trees throughout unburned forest for an unspecified period of time.

The differences between the projects are substantive. This is best illustrated by the DNA’s rejection and revision of the design features included in the R5 Project and the DNA’s proposal of wholly new design features. Several examples help to illustrate the differences between the projects. First, the DNA rejects the R5 Project’s equipment exclusion zones (EEZ) even though the R5 EEZ applies not only to burned areas, but unburned portions of the landscape as well. Instead, the STF Project proposes a wholly new set of equipment exclusion zones for “unburned” portions of the STF Project areas (DNA, Appendix A, p. 40). This new set of EEZs proposed in the STF Project will be essentially the only riparian protection measures applied, since there are no wildfire affected areas where hazards now need to be removed in the STF Project footprint.

Second, the DNA rejects measures in the R5 Project designed to focus tree cutting on hazards (and when to retain the cut hazard tree as a downed log versus removal of the cut hazard tree from the forest), and then adopts a measure that more broadly allows the management of snags to specific levels or densities. This is a major change because the DNA now appears to allow the logging of snags to specific density levels *irrespective of whether the snag is a hazard tree in the first place*. Specifically, the DNA drops WA-1 and WA-2, and then, with respect to WA-3, rejects the use of the phrase “unless a hazard to a road, trail, or facility”, replaces it with a measure that manages snags to certain densities but without first making clear that snags can only be removed if they are in fact a hazard tree in the first instance. This intention to manage snags to specific levels, rather than as hazard trees, is reinforced by the following statement in the DNA:

These management requirements ensure that appropriate levels of these essential features will be maintained during hazard tree abatement and removal operations occurring in both burned and unburned stands.

(DNA, p. 14). Because this snag management approach implies that snags can be removed to meet density thresholds, independent of the snag's threat to a road, trail, or facility, it is very different from what was analyzed in the R5 EA which only contemplated removal of hazard trees, and then provided criteria for when such hazard trees should be retained in the forest as downed wood instead of being removed from the forest entirely. The thresholds in the snag densities offered in the DNA are irrelevant for a project, like the R5 Project, that would leave all snags standing except those that might hit a road, trail, or facility.

In a third example, the DNA adds measures to specifically address the impacts of hazard tree removal on unburned forests that were never contemplated in the R5 Project. The DNA described the addition of three measures (WSTF-1, WSTF-2, WSTF-3) as necessary to “ensure that the potential effects of abating or removing hazard trees within potentially suitable and potentially occupied terrestrial wildlife habitat are minimized and accounted for and appropriately mitigated.” (DNA, p. 13). These measures were specifically proposed because the R5 Project analysis assumed that most of the habitat area to be treated was not suitable for many species due to the impacts of wildfire and that the presence of certain species occurring in the treatment areas was low or not likely. In this third example, these three new measures are summarized generally in Table 3 of the DNA (p. 13), but they (and the specifics of their language) do not appear in Appendix A of the DNA, as promised in this table. There are 5 new wildlife measures included in the DNA (Appendix A, p. 54, WCS-11, WCS-12, WCS-13, WCS-14 and WCS-15), but these are not evaluated in Table 3 of the DNA (pp. 10-28).

Twenty-one of the management requirements in the R5 Project were modified in Appendix A of the DNA. Of these, 10 were modified to address unburned forests. These modifications in many cases were related to reducing protections in the R5 Project to riparian and stream resources. For example, a 100-foot EEZ was provided to riparian habitats that were occupied by Forest Sensitive Species in the R5 Project (DNA, Appendix A, p. 47, Label AA-22). This measure covered both burned and unburned forests. Nonetheless, this buffer was dropped in the DNA for the STF Project and instead relies on less protective EEZs identified for unburned areas.¹

Ten management requirements that were not in the R5 Project were added to the DNA and five of these were added to address the differing requirements for unburned forests (Appendix A, p. 54, WCS-11, WCS-12, WCS-13, WCS-14 and WCS-15). As stated in the DNA, these measures were added to “enforce and support assumptions made in the R5 analysis” that there would be minimal impacts from removing hazard trees from unburned forests.

The Proposed Action in the STF Project is not the same as that presented in the R5 Project. In response to these differences, the DNA revises or adds numerous and substantive management requirements to address the differences between the projects. These adaptations presented in the

¹ We note that throughout Appendix A, reference is made to “Table A2” for changes to addressed unburned areas. We note that Table A2 of this appendix addresses burned areas and Table A3 addresses unburned areas. References to these tables should be corrected in future environmental documentation.

DNA demonstrate substantial differences between projects, and the DNA cannot be used to satisfy the NEPA requirements for the STF Project.

B. The Duration and Scope of the STF Project Is Not The Same As Analyzed in the R5 Project EA.

The EA for the R5 Project assumed that the project would be completed “within approximately 2 to 3 years following the decision” (USDA Forest Service 2022, p. 5). This constraint on duration combined with focus on areas affected by high severity fire within the perimeters of five wildfires limits the intensity of the R5 Project. In contrast, the STF Project does not specify a duration for the project. The STF Project also proposes hazard tree removal on the entire road system (levels 2, 3, 4, and 5) for the Stanislaus National Forest from the unburned forest that exists today and burned forests that may exist in the future. The R5 Project addresses conditions which exist today and will be acted upon in the next 3 years, whereas the STF Project addresses unknown future conditions (i.e., if a wildfire occurs) and without a time limit.

The extent of the STF Project is also significantly greater than the R5 Project. The estimated area of impact for the R5 Project is 98,762 acres (USDA Forest Service 2022, p. 8), whereas the estimated impact for the STF project is 137,998 acres (DNA, p. 6) – an increase in size of about 40%. The area of impact is also more concentrated for the STF Project compared to the R5 Project. The STF Project would affect about 17% of the national forest lands within the boundary of the Stanislaus National Forest compared to the R5 Project that affects only about 4% of the national forest lands on the Sierra, Sequoia, and Inyo National Forests combined.

C. The STF Project Does Not Adopt a Hazard Level For Trees to Be Removed.

The STF Project does not adopt a level of unacceptable risk to roads, trails, and facilities. This is inconsistent with the marking guidelines (Angwin et al. 2022) and the R5 Project.

Angwin et al. (2022) establishes a process to identify trees that are a hazard and should be removed. There are several steps to the assessment process; two critical steps are where hazard trees would be removed and the acceptable probability of mortality. It is the combination of these two factors that determines the trees to be felled. The hazard level adopted also moderates the number of hazard trees that can be removed, since, for instance, limiting the removal to trees with high hazard ratings will result in fewer trees being removed compared to setting a hazard level to moderate and high risk.

The R5 Project adopts various hazard levels depending on landscape condition and type of infrastructure. A moderate to high hazard level was adopted for tree removal along roads in areas affected by high severity fire (USDA Forest Service 2022, p. 6). Unburned or low intensity burn areas that were not targeted for treatment were assigned a high hazard rating (Ibid.). The R5 Project makes additional hazard distinctions for hazards along trails and fences (Ibid., p. 7).

The DNA makes no mention of the targeted hazard level or how the hazard level might vary with the type of infrastructure. This means that hazards of any level, including low hazard, could be

removed. Failing to establish the hazard level for the different types of infrastructure is a substantial change from the R5 Project and is also arbitrary because no explanation is provided.

D. Inconsistency With BLM's Practice.

In approving direction to use a DNA in Forest Service environmental compliance and decision making, the agency committed to “being in line with BLM’s practice” regarding the use of DNAs. (85 FR 73623). We reviewed recent DNAs for hazard tree and some vegetation management projects recently issued by BLM. In all cases, the new project proposed and evaluated in the DNA was within the assessment area of the environmental analysis to which the DNA was tiering. A recent roadside hazard tree project in Amador and Tuolumne counties serves as an example. This new project to remove hazard trees from roadsides referenced an EA completed in 2019 (USDI Bureau of Land Management 2019). Among other things, the DNA stated this about the new project:

- The geographic and resource conditions for the new project are the same as those analyzed in the EA.
- The EA included the new project area within its footprint.
- There are no differences between the new proposed action and the action alternative analyzed in the existing NEPA document.

(USDI Bureau of Land Management 2020, p. 3).

Contrary to the BLM’s practice for using DNAs for roadside hazard projects, the STF Project:

- Has resource conditions that are different from the R5 Project;
- Has a footprint that was not included within the R5 Project footprint; and
- Makes changes to the new proposed action that were not analyzed in the existing NEPA document for the R5 Project.

The STF Project does not follow the use of BLM’s practices for roadside hazard DNAs, contrary to the commitments made by the Forest Service when approving this rule in 2019 (85 FR 73623).

II. The Range of Alternatives Analyzed in the R5 Project EA Is Not Appropriate for the STF Project.

The R5 Project EA assumes that impacts to unburned forests will largely be avoided, because only areas burned by high severity fire are the target of the project’s actions. Thus, the R5 Project EA does not evaluate the effects of hazard tree removal in unburned forests at the scale proposed in the STF Project. The DNA recognized this and proposed new or modified management requirements to compensate for the deficiencies in the EA for the R5 Project as a supporting document for the STF Project. See discussion above for modifications to the R5 Project that were proposed in the DNA.

The new or modified management requirements address sensitive resources like at-risk wildlife species and riparian and aquatic features in unburned landscapes. The STF Project is dominated

by unburned forests and the new or modified management requirements would be applied to a majority of the footprint of the proposed action. These changes in management requirements are focused on unburned forests and were not evaluated in the EA for the R5 Project. As a result, the R5 Project EA does not evaluate an alternative that is substantially the same as the STF Project. Because of this, the range of alternatives evaluated in the EA for the R5 Project are not appropriate for the STF Project, contrary to 36 CFR 220.4(j)(1)(ii).

III. The Environmental Effects of the STF Project Are Not Similar to Those Analyzed in the R5 Project EA.

The R5 Project EA does not evaluate the effects of hazard tree removal in unburned forests at the scale proposed in the STF Project. The DNA recognized this and proposed new or modified management requirements to compensate for the dissimilarities with the EA for the R5 Project. The effects of the proposed hazard trees removals with these new management requirements, however, were not analyzed in the EA for the R5 Project. Table 3 of the DNA attempts to justify the adequacy of these management requirements in a quasi-effects analysis. This analysis fails though to describe the actual impacts and how the management requirement reduces impacts to less than significant. It also fails to cite any monitoring or other information to support their conclusions that these management requirements will be sufficient to minimize impacts on sensitive resources, comparable to the EA for the R5 Project.

The impacts of hazard tree removal in unburned forest are different than those in burned forests. In an effort to avoid impacts on wildlife and other sensitive resources from hazard tree removal, the R5 Project focused its actions on burned forests. Consequently, the EA for the R5 Project did not analyze the impacts from the extensive habitat alteration that could occur in unburned habitats in the STF Project. In recognition of the lack of effects analysis for unburned forests in the EA for the R5 Project, the wildlife BE for the STF Project includes such analyses for 12 threatened, endangered or sensitive species (BE, pp. 16-18, Tables 2 and 3).

The effects analyzed in the EA for the R5 Project are also not similar because many of the measures that were modified in the STF Project are less protective of sensitive resources as compared to those in the R5 EA. For example, management requirement AA-22 in the R5 Project requires a minimum 100-foot EEZ be established around perennial and intermittent rivers, streams, other waterbodies, and wet/sensitive areas including seeps, springs, and meadows within suitable habitat for aquatic and terrestrial regional forester sensitive species. The DNA limits the application of this management requirement to burned areas (of which none currently exist in the STF footprint) and provides less protective measures to these sensitive areas in unburned forests. This change in management requirements is, of course, not analyzed in the EA for the R5 Project. Because of these issues, the requirement of 36 CFR 220.4(j)(1)(iv) has not been met.

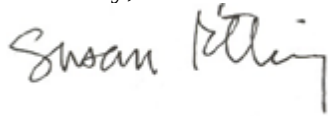
IV. Issues and Concerns About the Proposed Action for the STF Project

We identify in this section issues and concerns that the alternatives and the environmental analysis for the STF Project should address.

- Different hazard levels should be assigned to roads, trails, and facilities based on their use patterns in order to minimize impacts to riparian areas and special aquatic features and threatened, endangered, and sensitive species.
- Removal of trees with high hazard levels, and not moderate levels, should be assigned to Level 2 roads and motorized trails to strike a better balance between retaining and removing snags that provide important habitat values.
- More protective management requirements, like those applied to riparian areas and sensitive species in the R5 Project, should be adopted for Level 2 roads and trails in unburned forests to strike a better balance between hazard reduction and resource protection.
- Adopt a management requirement that retains all snags unless a hazard (at defined levels) to a road, trail or facility.

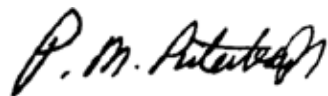
We appreciate the opportunity to provide scoping comments on this project. If you have additional questions about these comments, please contact Susan Britting (britting@earthlink.net).

Sincerely,



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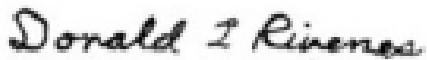
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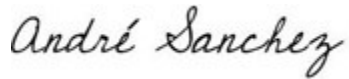
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References

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