Sent via online comment system at
https://cara.fs2c.usda.gov/Public//CommentInput?Project=55868

May 22, 2023

Acting Regional Forester
attn: Objection Reviewing Officer
R6 Regional Office
1220 SW 3rd Avenue
Portland, OR 97204

Re: Objection to Forest Supervisor David Warnack's Draft Record of Decision and Final Environmental Impact Statement for the Youngs Rock Rigdon Project on the Middle Fork Ranger District of the Willamette National Forest.

To the Objection Reviewing Officer:

Pursuant to 36 C.F.R. § 218, WildEarth Guardians ("Guardians") files this objection to the U.S. Forest Service's Draft Record of Decision ("Draft ROD") and Final Environmental Impact Statement ("FEIS") for the Youngs Rock Rigdon Project in the Willamette National Forest. Guardians submitted timely scoping comments on July 16, 2019 and comments on the Draft EIS on August 18, 2021. Guardians has fully participated in the agency review of the project and, as such, is a proper Objector under Part 218. Pursuant to 36 C.F.R. § 218.8, Guardians hereby states that the following content of this Objection demonstrates the connections between the comments noted above for all issues raised herein, unless the issue or statement in the Draft ROD and/or FEIS arose or was made apparent after the opportunity for comment closed.

WildEarth Guardians is a nonprofit conservation organization with offices in Washington, Oregon, 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.

I. The Forest Service failed to ensure the identified minimum road system minimizes adverse environmental impacts and failed to consider reasonable alternatives related to the road system.

A. Minimum Road System

The Travel Management Rule requires the Forest Service to "identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National

Forest System lands." 36 C.F.R. § 212.5(b)(1). The minimum road system (MRS) is the road system determined to be 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.

Id. The Forest Service recognized that its regulations "require the Forest to identify the minimum road system[.]" FEIS 276.

In developing the purpose and need for the project, the Forest Service acknowledged that "[t]here are roads in the project area that are in poor condition and not maintained to Forest road management standards" and that some of these roads "are inhibiting aquatic and wildlife flows as well as fostering the spread of invasive weed species." FEIS 12. Other roads, the Forest Service continued, "are no longer needed to meet public and administrative needs." *Id*. The Forest Service then stated that its desired condition for the project area following project implementation is a "minimum road system that is sustainable, reduces resource damage, and continues to provide needed access." *Id*.

Appendix C identifies the "minimum road plan" for the project area. FEIS 338-55. For each road segment, Appendix C identifies mileage, current status, proposed status under each action alternative, storage level, and rationale. *Id*. Under the selected alternative, Alternative 2, the MRS for the project area would be 162 miles. *Id*. at 278 (Table 63).

We appreciate the Forest Service's recognition that the current road system in the Willamette National Forest is oversized and needs to be reduced and better maintained to protect and restore wildlife and aquatic habitat. We also commend the agency for taking steps to develop an MRS for the project area. However, Guardians does not believe that the identified MRS "ensures" that adverse environmental impacts are minimized. 36 C.F.R. § 212.5(b)(1).

Throughout the FEIS, the Forest Service discusses how the MRS for the project area will purportedly *reduce* environmental impacts rather than *minimize* them:

- "Road reconstruction and maintenance in action Alternatives 2 and 3 would ***reduce*** the risk of road failures[.]" FEIS 274.
- "These actions would help address unmanaged drainage issues which would ***reduce*** road related sediment problems and ***reduce*** future damage to the road infrastructure." *Id*.
- "Road storage would ***reduce*** road damage, resulting in lower costs and environmental impacts to regain access in the future as well as the benefit of ***reducing*** sediment while in storage. Road decommissioning ***reduces*** road density and sediment carrying road failure events." *Id*. at 278.
- "These actions would ***reduce*** the likelihood of sediment leaving the road with runoff by ***reducing*** the risk of road failure and by reducing the average distance between drainage

structures and consequently, the amount of water that each structure needs to handle." Id. at 279.

The Forest Service made similar statements in its response to comments on the DEIS. For example, in responding to Guardians' roads-related comments, the Forest Service stated that it desired a "minimum road system" for the project area that "reduces resource damage." *Id*. at 429. An MRS that reduces environmental impacts does not comply with the Travel Management Rule's requirement to "ensure" that the MRS "minimizes adverse environmental impacts." 36 C.F.R. § 212.5(b)(1). Consequently, the MRS also fails to meet applicable regulatory requirements. *Id*.

Guardians believes there are ample opportunities that the Forest Service should consider in order to minimize adverse environmental impacts associated with the current road system.

B. The Forest Service failed to consider reasonable alternatives related to the road system.

The Forest Service failed to consider a broad range of reasonable alternatives. The Council on Environmental Quality's regulations implementing the National Environmental Policy Act ("NEPA") require federal agencies to "[e]valuate reasonable alternatives to the proposed action[.]" 40 C.F.R. § 1502.14(a). While agencies do not have to consider "infinite, unfeasible, or impractical alternatives," they "must consider reasonable ones" and the existence of unexamined viable alternatives "renders an environmental review under NEPA inadequate." *Env't. Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 877 (9th Cir. 2022).

The Forest Service analyzed just three alternatives - the required "no action" alternative (Alternative 1), the preferred alternative (Alternative 2), and one alternative that is similar to the preferred alternative in many respects (Alternative 3). A review of the table comparing the proposed activities of the two action alternatives underscores how similar they are. *See* FEIS 43-44 (Table 6). The only areas in which the alternatives differ are in the amount of proposed logging. This similarity carries into the next table comparing the effects of the two alternatives. *Id*. at 45-53 (Table 7). Throughout the table, the effects of Alternative 3 are considered the "same as" or "similar to" Alternative 2 with a few exceptions due to increases or decreases in the amount of logging.

This is not the broad range of reasonable alternatives required. In particular, Guardians noted in its DEIS comments that the differences in road storage and decommissioning activities between the two action alternatives were negligible. *See* DEIS Comments at 3. This aspect of the FEIS remains unchanged from the DEIS despite the fact that identifying a sustainable road system is one of the primary purposes of the project. *See* FEIS at 11-12.

Indeed, according to the FEIS, there is an "extensive road system throughout the project area" that "was developed over several decades for a level of timber harvest that is many times greater than what occurs currently." *Id*. at 12. Some of these roads are "in poor condition and not maintained to Forest road management standards" and are "inhibiting aquatic and wildlife flows

as well as fostering the spread of invasive species." Other roads "are no longer needed to meet public and administrative needs." *Id*.

While Guardians appreciates the Forest Service's commitment to decommission 12 miles of roads within the project area, we believe that many more roads could and should be considered for decommissioning. With nearly 90,000 miles of roads, the Pacific Northwest Region has by far the most roads in the National Forest System. *See* Jacob Smith, *Mile by Mile: Ten Years of Legacy Roads and Trails Success*, App. D (2018). And with over 6,500 miles of roads, the Willamette National Forest is one of the most heavily roaded national forests in the region. *See* U.S. Forest Service-PNW Region, *Travel Management*, https://www.fs.usda.gov/detail/r6/landmanagement/planning/?cid=fseprd485439.[1] Road density in the project area is 3.9 mi/mi² (FEIS 275), which is nearly four times higher than the density considered the limit before sensitive species may be threatened with extirpation.[2]

In determining the MRS for the project area, the Forest Service calculated the risk to wildlife and aquatic species associated with each road segment. *See* U.S. Forest Service, Youngs Rock Rigdon Minimum Road Plan, Springfield, OR (last updated Feb. 25, 2016).[3] The Forest Service scored relative risk for each on a scale of 1-5, with 1 being the lowest risk and 5 being the highest risk. For wildlife risk, the Forest Service included the following narrative explanations for each category in the GIS data's attribute table:

Table 1: Wildlife Risk Calculated for Road Segments in Youngs Rock Rigdon Project Area.

Wildlife Risk Calculated for Road Segment	Description	Miles
5 Identifies a road segment under at least one of the following criteria:	Road segment intersects with peregrine primary nesting zones.	9.2
	Road segment intersects with a 0.25-mile buffer around bald eagle nests (both currently active and inactive).	
	7-digit road segment that intersects with the following LSRs: Fall Creek RO219, Waldo West RO220, Middle Fork South Cascades RO222.	
	7-digit road that intersects with the 4 BGEA (White-Dell, U. Westside, Cabin, Mossy-Grassy) that exceed the Forest Plan road density guidelines by 50% or more and intersect elk winter range or intersect with elk dde forage areas rated good to excellent from the Westside Elk Model.	

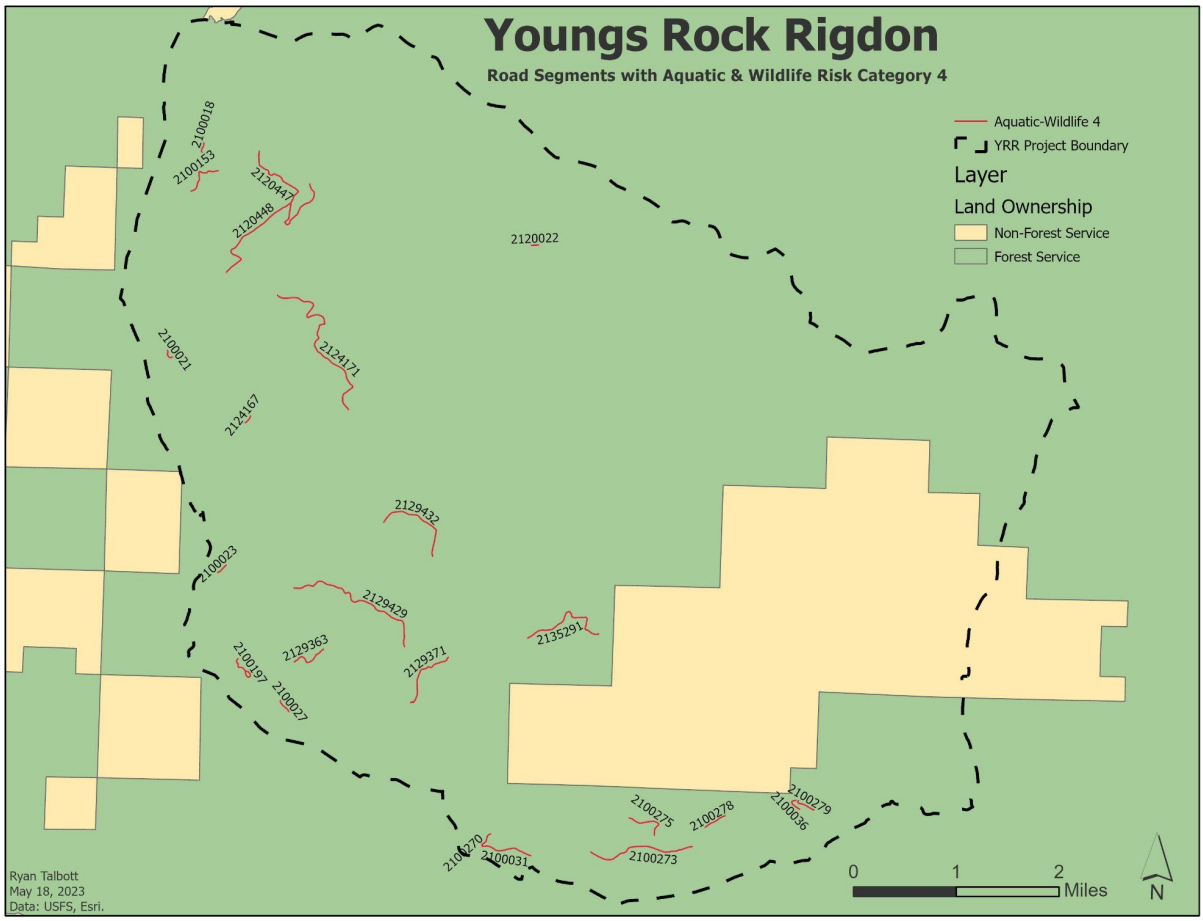
[1] The only forests that have more roads than the Willamette are the Deschutes, Fremont-Winema, Wallowa-Whitman, and Okanogan-Wenatchee National Forests.
[2] *See* Carnefix, G., and C.A. Frissell. 2009. Aquatic and Other Environmental Impacts of Roads: The Case for Road Density as Indicator of Human Disturbance and Road-Density Reduction as Restoration Target; A Concise Review. Pacific Rivers Council Science Publication 09-001. Pacific Rivers Council. Portland, OR and Polson, MT (Exhibit 1).
[3] This is one of the GIS shapefiles provided by the Forest Service.

4 Identifies a road segment under at least one of the following criteria:	7-digit roads and motorized trails within the 21 BGEAs that exceed Forest Plan Road Density Guidelines by 10-49% (See Attached Appendix B for this list) that also intersect elk winter range or intersect with elk dde forage areas rated as good to excellent from the Westside elk model.	68.6
3 Identifies a road segment under at least one of the following criteria:	Roads and motorized trails within Bald Eagle Management Areas (MA8), including segments of road not within the 0.25-mile buffer around bald eagle nest zones;.	12.7
	7-digit roads intersecting all remaining LSRs not identified under small LSR analysis.	
	7-digit roads and motorized trails within 300-meter northern spotted owl nest sites.	
	7-digit roads and motorized trails within Pileated Woodpecker Management Areas (9b) and Marten Management Areas (9c).	
	All 7-digit roads and motorized trails within the 3 BGEAs exceeding Forest Plan Road Density Guidelines by 1 - 9% (Juniper Groundhog, Scott-2, Wall Head) that intersect elk winter range or intersect with elk dde forage areas rated good to excellent from the Westside elk model.	
2 Identifies a road segment under at least one of the following criteria:	Roads and motorized trails intersecting peregrine secondary nest zones.	6.3
1	All other road segments.	155.8

The GIS data does not provide similar narrative criteria for risk to aquatic species but each road segment still has a numeric (1-5) risk score.

The Forest Service should have developed an alternative identifying roads that are considered a high-risk (4-5) to wildlife and aquatic species for decommissioning and restoration. For example, there are 13.1 miles of roads that meet the criteria for risk category 4 for both aquatics and wildlife.

Figure 1: Road Segments with Aquatic & Wildlife Risk Category 4.



Approximately 5.6 miles of these road segments have a final recommendation in the attribute table as "analyze for decommissioning." The Forest Service should have considered analyzing all of these road segments for decommissioning (as well as roads rated 5 for risk to aquatics or wildlife).[4]

Proposed Resolution: The Forest Service should withdraw the Draft ROD and prepare a supplemental EIS that considers additional alternatives for increased opportunities to decommission roads, particularly those that are considered high risk for aquatic and wildlife resources. This will better ensure that the MRS minimizes adverse environmental impacts.

[4] There appears to be some discrepancies in the Forest Service's data as some of the road segments in Figure 1 that have final recommendations to "analyze for decommissioning" are not recommended for decommissioning in the FEIS. For example, road 2124171 is listed as "analyze for decommissioning" in the GIS data but listed as "closed-storage" in Figure 6 of the FEIS. This raises concerns about the accuracy of the information in the FEIS. The Forest Service should revisit this information and if it determines that the information in the FEIS is inaccurate, it should prepare a supplemental EIS with accurate data.

II. Failure to protect mature and old growth forests and new information that requires preparation of a supplemental EIS.

After the DEIS comment deadline, President Biden issued an executive order requiring the Forest Service and Bureau of Land Management (BLM) to "define, identify, and complete an inventory of old-growth and mature forests" on their respective lands and to "make such inventory publicly available." *See Strengthening the Nation's Forests, Communities, and Local Economies*, 81 Fed. Reg. 24851, 24852 (Apr. 22, 2022) ("EO 14072"). Because EO 14072 was published after the opportunities for comment, this constitutes "new information" and raising this issue now satisfies the requirements of 36 C.F.R. §§ 218.8(c) and 218.8(d)(6).

EO 14072 sets forth a sequence of events that must be followed before the Forest Service and BLM may approve logging of mature and old-growth forests on their respective lands. First, the agencies must "define" mature and old-growth forests, "accounting for regional and ecological variations." *Id*. Second, after the agencies have defined mature and old-growth forests, they must then "identify" where those forests are and "complete an inventory" of those forests and make that inventory available to the public. *Id*. Third, after the inventory process is complete, the agencies must then (i) "coordinate conservation and wildfire risk reduction activities, including consideration of climate-smart stewardship of mature and old-growth forests," with other agencies, States, Tribal Nations, and private landowners, (ii) "analyze threats to mature and old-growth forests," and (iii) "develop policies" that address threats to mature and old-growth forests." *Id*. These steps must be carried out in order to effectuate the plain meaning of EO 14072.

The Forest Service corroborates the sequential nature of EO 14072 in the Draft ROD:

> This Executive Order requires the Forest Service and Bureau of Land Management, within one year, to define, identify, and complete an inventory of old-growth and mature forests on Federal lands . . . ***After*** the completion of this inventory, agencies are asked to analyze threats to mature and old-growth forests, coordinate conservation and wildfire risk reduction efforts, and develop policies that institutionalize climate-smart management and address threats to mature and old-growth forests.

Draft ROD 22-23 (emphasis added). However, elsewhere in the Draft ROD (and the FEIS), the Forest Service contends that EO 14072 "does not . . . preclude management in mature or old-growth forests." *Id*. at 23; *see also* FEIS 392. In other words, the Forest Service claims that it can continue logging mature and old-growth forests before it has defined, identified, and completed an inventory of those forests. This puts the cart before the horse and undermines the plain language and intent of EO 14072.

On April 20, 2023, the Forest Service and BLM took the first step in complying with EO 14072 by publishing *Mature and Old-Growth Forests: Definition, Identification, and Initial Inventory on Lands Managed by the Forest Service and Bureau of Land Management* (MOG Report). The MOG Report "contains the first national inventory of old-growth and mature forests focused specifically on Forest Service and BLM lands." MOG Report 1. Importantly, the report's findings are only "*initial* estimates of old-growth and mature forests" on Forest Service and

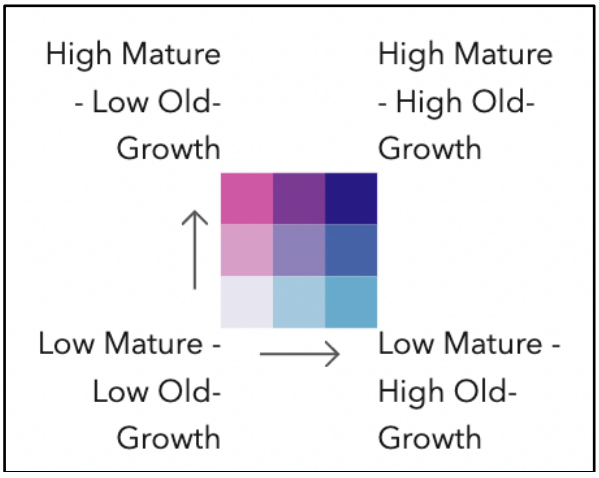
BLM lands. *Id*. (emphasis added). Indeed, throughout the MOG Report, the agencies repeatedly affirm the sequential nature of EO 14072 and that the current definitions and inventory are preliminary in nature:

- "The ***initial*** inventory and definitions for old-growth and mature forests are part of an overarching climate-informed strategy to enhance carbon sequestration and address climate-related impacts, including insects, disease, wildfire risk, and drought. ***Initial*** inventory results will be used to assess threats to these forests, ***which will allow consideration of appropriate climate-informed forest management, as required by subsequent sections of Executive Order 14072***." MOG Report 1.
- "The ***initial*** inventory will ***then*** be used to assess threats to these forests, ***which will allow consideration of appropriate climate-informed forest management***, as required by subsequent sections of the Executive order." MOG Report 4.
- "***Once the definitions and inventory are established***, section 2c then calls on the Forest Service and BLM to:
    - Coordinate conservation and wildfire risk reduction…
    - Analyze the threats to mature and old-growth forests on Federal lands…and…
    - Develop policies…to institutionalize climate-informed management and conservation strategies that address threats to mature and old-growth forests on Federal lands."(MOG Report 10-11)
- "This ***initial*** inventory represents the current condition of forests managed by the Forest Service and BLM at the time of the most recent FIA measurement; it does not provide any information on resilience or climate response of these forests…The team plans to apply working definitions for old-growth and mature forest to prior FIA data, which will inform how these forests have changed over the past 10-20 years. In addition, ***the team will explore how old-growth and mature forests are distributed in additional land use allocations that are currently grouped into the 'other' category.***" MOG Report 26.
- "Executive Order 14072 section 2c and USDA Secretarial Memo 1077-004 provide some clarity on ***next steps*** following the initial classification presented here." MOG Report 26.

Contemporaneous to the publication of the MOG Report, the Forest Service also published an advance notice of proposed rulemaking (ANOPR) that, in part, "[b]uilds on ongoing work to implement" EO 14072. *See* Organization, Functions, and Procedures; Functions and Procedures; Forest Service Functions, 77 Fed. Reg. 24497 (Apr. 21, 2023). The ANOPR explains that EO 14072 "calls particular attention to the importance of Mature and Old-Growth (MOG) forests on Federal lands for their role in contributing to nature-based climate solutions by storing large amounts of carbon and increasing biodiversity." *Id*. at 24498. Elsewhere, the ANOPR stresses "the importance of mature and old-growth forests" for "large tree retention and conservation" and that "[o]lder forests often exhibit structures and functions that contribute ecosystem resilience to climate change." *Id*. at 24502-24503. Finally, the ANOPR states the MOG inventory that is currently "being developed" will "help inform policy and decision-making on how best to conserve, foster, and expand the values of mature and old-growth forests on our Federal lands." *Id*. at 24501.

The ANOPR also announced the "beta version of a new Forest Service Climate Risk Viewer"[5] that "was developed with 38 high-quality datasets and begins to illustrate the overlap of multiple resource values with climate exposure and vulnerability." *Id*. at 24501. "Core information from the [initial] MOG inventory has been integrated into the viewer" to "help inform policy and decision-making on how best to conserve, foster, and expand the values of mature and old-growth forests on our Federal lands." *Id*. The initial MOG inventory displayed in the Climate Risk Viewer was derived from the Forest Inventory and Analysis (FIA) field plot networks, the "primary source for information about the extent, condition, status, and trends of forest resources across the U.S."[6] *See* Climate Risk Viewer. The map displays MOG estimates on Forest Service land within 250,000-acre fireshed polygons, which are considered "the appropriate scale for statistical inference using FIA plots." *Id*. The matrix colors indicate the degree of mature or old-growth forest within each polygon (light-to-dark pink = low-to-high mature forest; light-to-dark blue = low-to-high old-growth forest). *Id*. Polygons classified as "low" indicate 0-25,000 acres of mature or old-growth forest, "intermediate" (25,000-75,000 acres), and "high" (75,000-250,000 acres). *Id*.

Figure 2: Mature and Old-Growth Estimates in Forest Service Climate Risk Viewer.

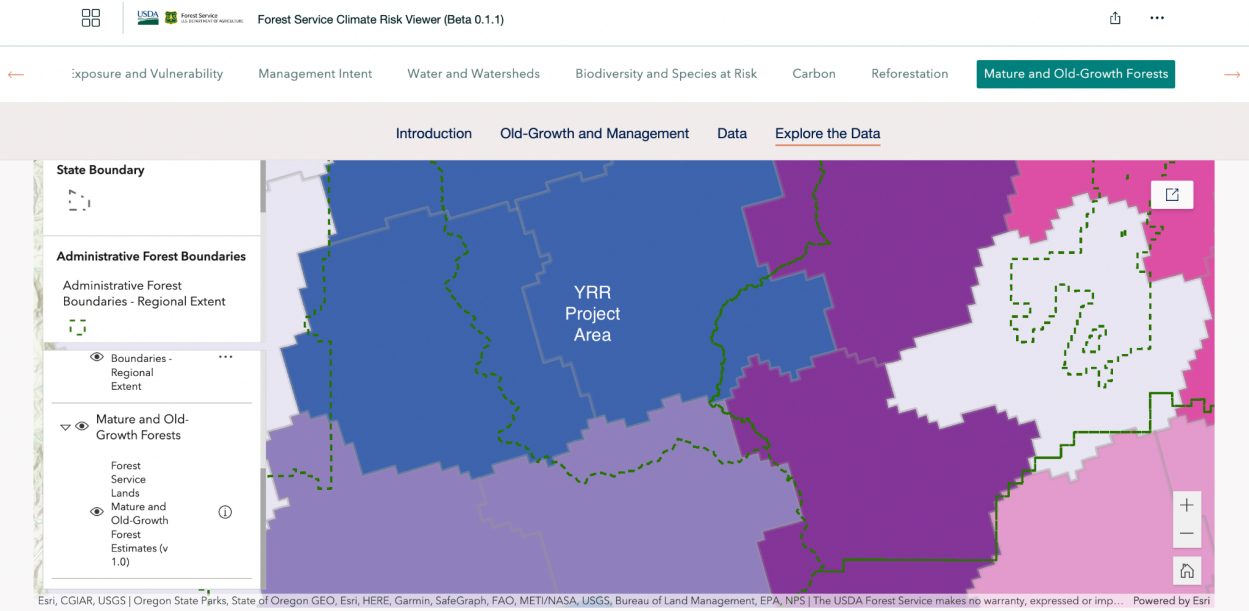


The project area is within polygons in the intermediate range for mature forest and high range for old-growth.

[5] The Forest Service Climate Risk Viewer is available at: https://storymaps.arcgis.com/collections/87744e6b06c74e82916b9b11da218d28?item=8.

[6] The initial inventory for Oregon is based on FIA data from 2008-2019. MOG Report 62.

Figure 3: Approximate Location of Youngs Rock Rigdon Project in the Forest Service Climate Risk Viewer.



This means that there could be between 25,000 - 75,000 acres of mature forest and between 75,000 - 250,000 acres of old-growth within these polygons. The Forest Service needs to consider this new information and compare it with the data it relied on in preparing the FEIS to determine whether it is accurately accounting for the extent of mature and old-growth forest within the project area.

Other researchers have also conducted recent inventories of mature forests in the U.S. that the Forest Service should consider. In September 2022, researchers published the "first comprehensive and spatially explicit assessment of MOG in the conterminous United States."[7] The following maps overlay the MOG inventory from DellaSalla 2022 on project area stands depicting both stand age and proposed treatments under Alternative 2.

[7] DellaSala DA, et al. (2022) Mature and old-growth forests contribute to large-scale conservation targets in the conterminous United States. *Front. For. Glob. Change*, 5:979528, 3 (DellaSalla 2022) (Ex. 2).

Figure 4: Logging Stand Age in Youngs Rock Rigdon Project Area.

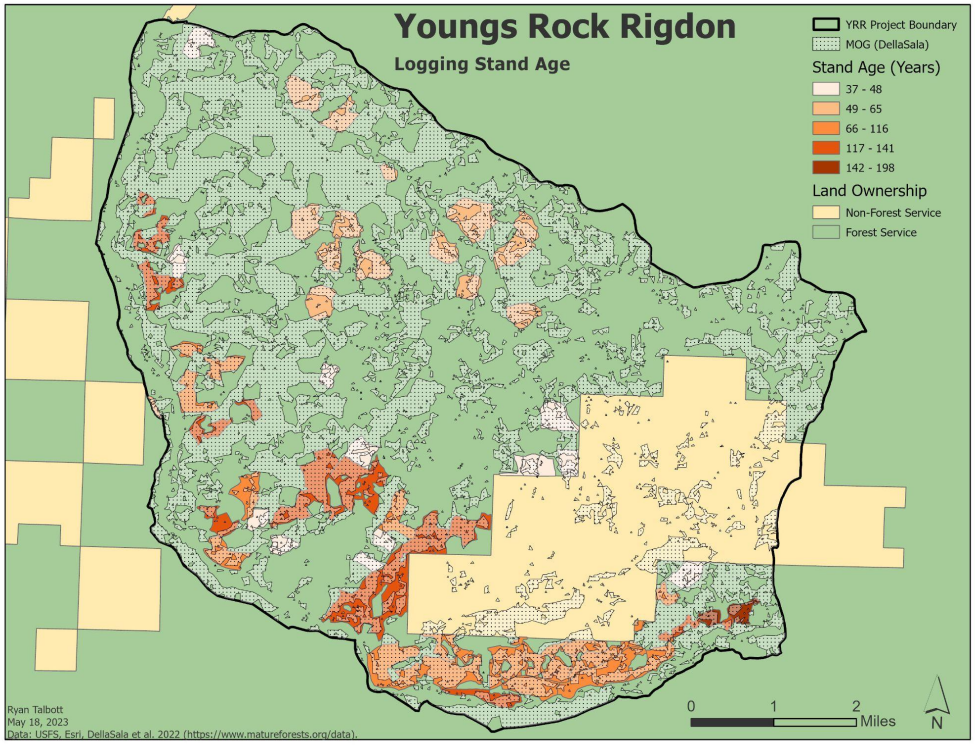
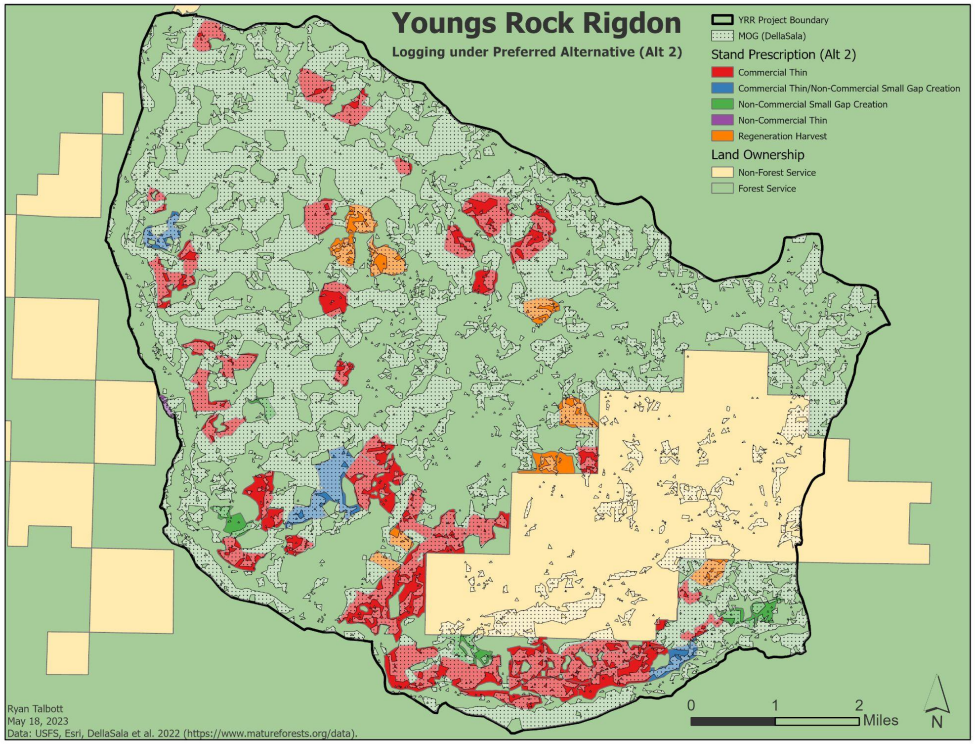


Figure 5: Proposed Logging in Youngs Rock Rigdon Project Area (Alt. 2).

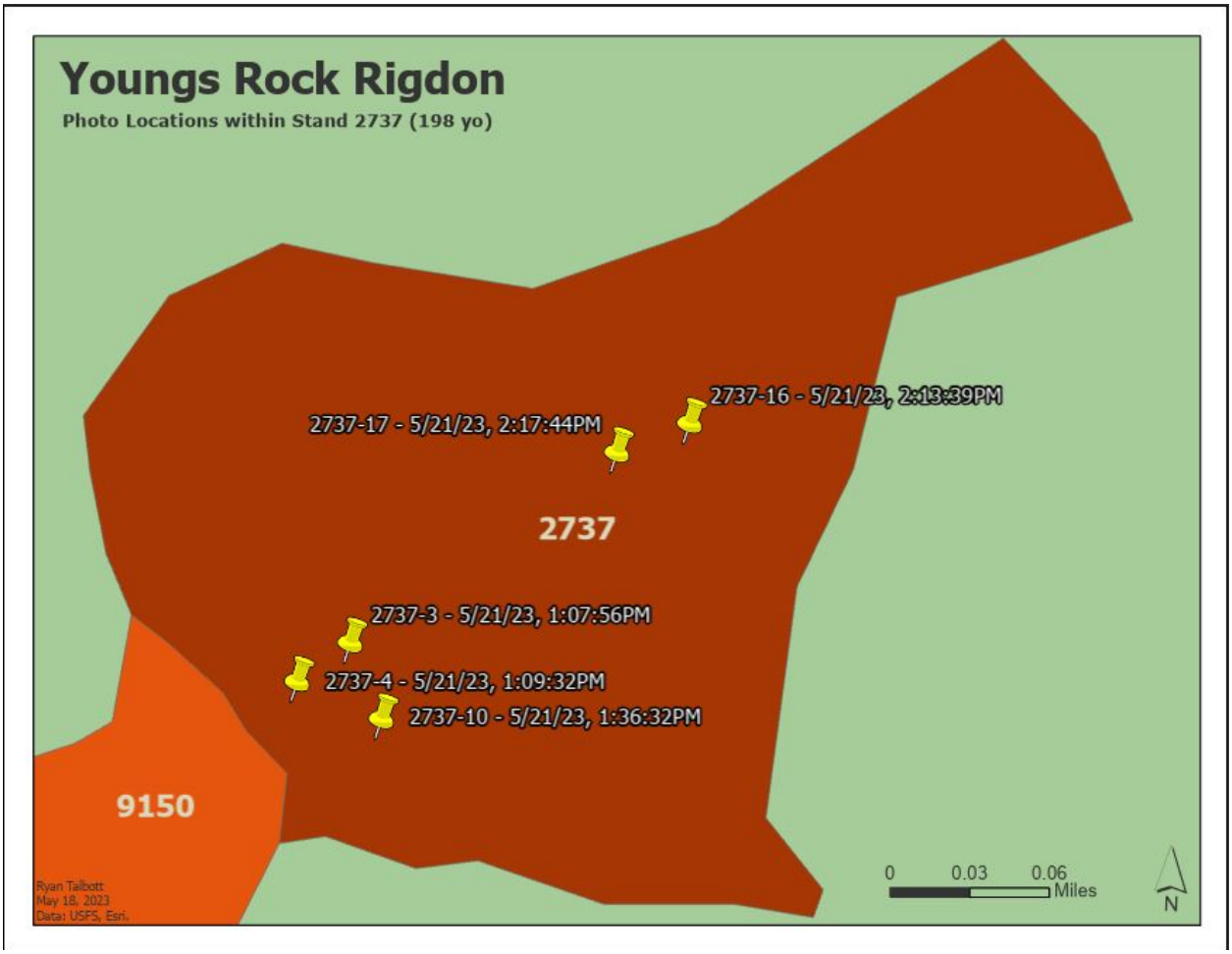


As these maps indicate, implementing Alternative 2 would result in extensive commercial thinning and regeneration cuts in forests identified as mature and old-growth by DellaSala 2022. Many of these stands are between 117-198 years old. The Forest Service should not be liquidating what it is currently attempting to define and inventory for the first time. The importance of maintaining existing mature and old-growth forest cannot be overstated.

As explained above, these forests provide "nature-based climate solutions" for mitigating the effects of anthropogenic climate change. MOG Report 3. DellaSala 2022 explains how mature forests "provide superior values compared to logged forests as natural climate solutions" to meet the objectives of EO 14072. *Id*. at 16 (citations omitted). But "the current status quo management of MOG and low protection levels on all lands presents unacceptable risks at a time when the global community is seeking ways to reduce the rapidly accelerating biodiversity and climate crises." *Id*. at 16-17 (citation omitted). As such, the Forest Service should not be logging any mature and/or old-growth forests at least until it has completed the rulemaking that is currently underway.

But that is precisely what the Forest Service is proposing to do in this project. The maps and photos below were taken in two project area stands: Stand 2737 (198 years-old) and Stand 3041 (129 years-old).

Figure 6: Photo Locations in Stand 2737.



2737-3

2737-4(1)

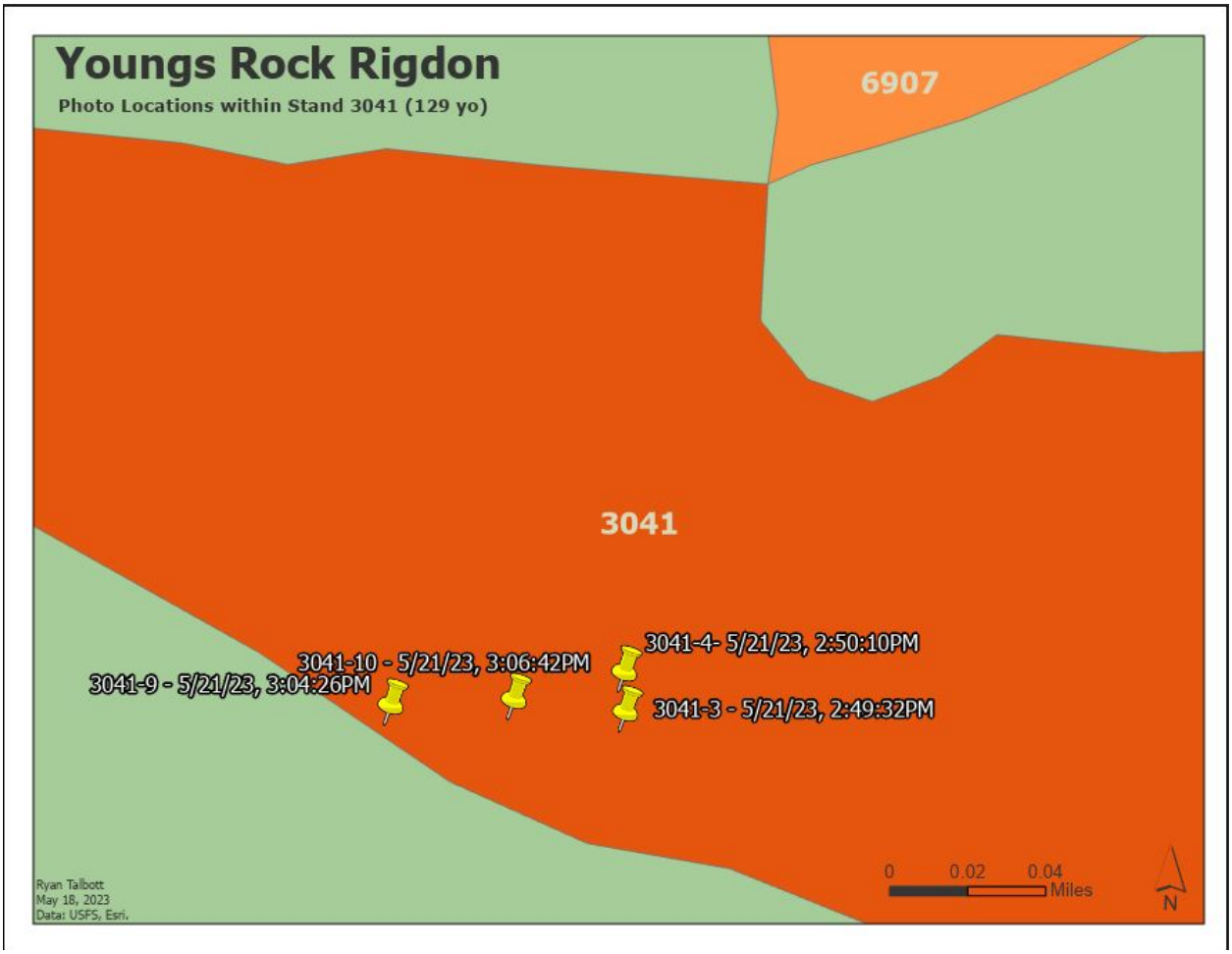
2737-4(2)

2737-10

2737-16

2737-17

Figure 7: Photo Locations in Stand 3041.



3041-3 (note the steep slopes)

3041-4 (note the steep slopes)

3041-9

3041-10 (note the steep slopes)

Mature and old-growth trees are present throughout stands 2737 and 3041, as they almost certainly are in many of the other stands throughout the project area considering their ages. The Forest Service owes a duty to the public to ensure that these forests remain standing so that they can continue to perform their vital function of "storing large amounts of carbon." MOG Report 3; *see also Light v. U.S.*, 220 U.S. 523 (1911) ("the public lands . . . are held in trust for the people of the whole country."); *Juliana v. U.S.*, 217 F.Supp.3d 1224, 1259 (D. Or. 2016) ("[t]he federal government, like the states, holds public assets . . . in trust for the people.") (*rev'd on other grounds*, *Juliana v. U.S.*, 947 F.3d 1159 (9th Cir. 2020)); *Selkirk-Priest Basin Ass'n Inc. v. State ex rel Andrus*, 899 P.2d 949, 952-54 (Idaho 1995) (public trust doctrine permits challenge to timber sales since increased sedimentation could impact trust resources).

A recently-implemented project shows how some stands may look if Youngs Rock Rigdon is approved and implemented. The Pinegrass Restoration project was recently implemented to create "more open canopy mixed conifer forests," which is one of the purposes identified by the Forest Service for Youngs Rock Rigdon. FEIS 5, 8.

The photo above shows one of the stands that were thinned as part of the Pinegrass Restoration project. This stand is directly west of stand 2737, the oldest stand in the Youngs Rock Rigdon project (198 years-old). It is a stark contrast to the forest in stand 2737 where numerous large,

old Douglas firs and ponderosa pines are found. Even assuming that some thinning may be appropriate, it should be non-commercial, leaving mature and old-growth trees standing.

Placing a moratorium on mature and old-growth logging is appropriate considering EO 14072 "calls particular attention to the importance of Mature and Old-Growth (MOG) forests on Federal lands for their role in contributing to nature-based climate solutions by storing large amounts of carbon and increasing biodiversity." 77 Fed. Reg. 24497, 24498; *see also* MOG Report at 3. Continuing to cut down and remove mature and old-growth trees and forests before the "definitions and inventory are established" and the current rulemaking is completed undermines the administration's focus on "nature-based climate solutions" for "storing large amounts of carbon."

Another factor weighing in favor of a moratorium on logging in mature and old-growth forests is the recent formation of a federal advisory committee to "provide advice and recommendations on landscape management approaches that promote sustainability, climate change adaptations, and wildfire resilience" in the Northwest Forest Plan area. *See* Notice of intent to establish and advisory committee and call for nominations, 87 Fed. Reg. 69249 (Nov. 18, 2022). One of the "primary issues" the committee will consider and make recommendations about is the "[a]pplication of the best available science regarding . . . the ecological importance of mature and old growth forests[.]" *Id*. The announcement of this committee led Region 6 to withdraw the record of decision for the Willamette National Forest's Flat Country Project. *See* FS-PNW Region, *Forest Service Pacific Northwest Region to withdraw, reissue Flat Country Project Record of Decision* (Dec. 29, 2022) (Ex 4). The Regional Office's review and withdrawal of the Flat Country Project ROD should lead the Willamette National Forest to hit the pause button on the Youngs Rock Rigdon Project.

The new information in the MOG Report and DellaSala 2022 requires the Forest Service to prepare a supplemental EIS before it may issue a final ROD. An agency must prepare a supplemental EIS "if a major Federal action remains to occur, and . . . [t]here are significant new circumstances or information relevant to environmental concerns bearing on the proposed action or its impacts." 40 C.F.R. § 1502.9(d)(1)(ii). As the Supreme Court has explained:

> It would be incongruous with [NEPA's] approach to environmental protection, and with the Act's manifest concern with preventing uninformed action, for the blinders to adverse environmental effect, once unequivocally removed, to be restored prior to the completion of agency action simply because the relevant proposal has received initial approval.

Marsh v. Oregon Natural Resources Council, 490 U.S. 360, 371 (1989). The standard for requiring a supplemental EIS is a "low" one, where "rais[ing] 'substantial questions' regarding [the project's] impact" is sufficient. *League of Wilderness Defenders/Blue Mountains Biodiversity Project v. U.S. Forest Serv.*, 752 F.3d 755, 760, (9th Cir. 2014).

Here, federal action remains to occur as the Forest Service has not yet approved the project. Moreover, the MOG Report and DellaSala 2022 constitute significant new information about the extent of mature and old-growth forests throughout the National Forest System, including within the Willamette National Forest. The MOG Report and DellaSala 2022 raise substantial questions

regarding the project's impact on potential mature and old-growth forest that the Forest Service did not consider in the FEIS. Logging prescriptions may need to be changed based on the results of the MOG Report and DellaSala 2022. As such, the Forest Service must prepare a supplemental EIS prior to issuing a final ROD.

Proposed Resolution: The Forest Service should prepare a supplemental EIS that incorporates significant new information from the MOG Report and initial federal inventory as well as DellaSala 2022. The Forest Service should also commit to a moratorium on logging in mature and old-growth forests at least until it has completed the current inventory and rulemaking that is underway.

Sincerely,

Ryan Talbott
Pacific Northwest Conservation Advocate
WildEarth Guardians
P.O. Box 13086
Portland, OR 97213
503-329-9162
rtalbott@wildearthguardians.org