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July 25, 2022

Objection Reviewing Officer
Intermountain Region USFS
324 25th Street
Ogden, Utah 84401



Objection against the Draft Decision Notice, Ashley National Forest Aspen Restoration Project

1. Objectors Names and Addresses

Lead Objector Sara Johnson, Director, Native Ecosystems Council,
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Signed for Objectors this 25th day of July, 2022

A large, stylized handwritten signature in black ink that reads "Sara Johnson". The signature is written over a horizontal line.

Sara Johnson

2. Attachments

This objection includes one appendix, Appendix A, that has relevant portions of cited literature and/or reports.

3. Name and Location of the Project

Ashley National Forest Aspen Restoration Project on the Ashley National Forest, Utah, Region 4 of the USFS

4. Name of the Responsible Official

Not identified in Draft Decision Notice; assume is Forest Supervisor, who is Susan Eickhoff

5. Statement Demonstrating Connection between Proposed Project and Prior Written Comments

On July 6, 2021, Objectors submitted joint comments on the Ashley National Forest (ANF) Aspen Restoration Project. These comments were acknowledged by the Forest Service in the Response to Comments provided with the draft Decision Notice and Environmental Assessment (EA). These issues and concerns were identified in 10 broad topics. The first was a violation of the National Environmental Protection Act (NEPA) due to a failure to propose a project without any actual assessments as to why the project is needed. As was noted by the Forest Service, this is a programmatic EA, which is a violation of the NEPA, as no site-specific information is ever provided to the public. Our second issue was that the proposal would result in further degradation of aspen stands by allowing continued livestock grazing on aspen sprouts, including those that would be stimulated by the proposed treatments. The third issue was the complete lack of any monitoring data on past treatments in aspen, demonstrating the absence of any basis for claiming that the proposed treatments are needed to restore aspen and associated wildlife. The fourth issue was the failure to complete an Environmental Impact Statement (EIS) for a 177,707 acre project when the Fishlake National Forest completed an EIS for an aspen treatment

program of 55,106 acres. The fifth issue was the failure of the agency to protect treated aspen sites with fencing from livestock; the status of fencing in past treatments of aspen of roughly 10,000 acres was not addressed. We also asked how the agency could increase aspen treatments on roughly 9-17 thousand acres per year, when in the past this was done on only about 1,000 acres per year. The sixth issue was a failure to include an actual restoration alternative for aspen that would remove and/or severely restrict livestock grazing in aspen stands. The seventh issue was that this project generally targets wildlife habitat in Inventoried Roadless Areas (IRAs), since 83% of the proposed treatments are in these IRAs; this is clearly a violation of the Roadless Area Conservation Rule (Roadless Rule). Along with this issue, we questioned why the agency identified the removal of conifers in aspen stands as "restoration," since aspen/conifer stands are natural and widespread, and are important wildlife habitat. Our eighth issue was that the agency has determined without any analysis or wildlife inventory that forest raptors as the boreal owl, flammulated owl, great gray owl, and goshawk will not be significantly impacted by effects on roughly 180,000 acres of their habitat. We also raised a concern as to how it will be possible for the agency to do valid wildlife surveys on 8-17 thousand acres per year. Our ninth issue was the failure of the agency to demonstrate that aspen treatments maintain or restore habitat for management indicator species (MIS) associated with aspen, including the warbling vireo and red-naped sapsucker; we were not able to locate any actual monitoring information on how aspen treatments affect these MIS. Our tenth issue was that the severe level of disturbances on aspen habitat will violate the Migratory Bird Treaty Act (MBTA); we listed 37 species of birds that use aspen stands that will be impacted on almost 180,000 acres. The FS did not provide any documentation on past aspen treatments as to how these 37 bird species were affected by treatments. Finally, we noted that there was no livestock utilization levels on aspen on any of the roughly 180,000 acres planned for treatment. Without this information, the agency has proposed a solution to a problem that has never been evaluated with any actual inventory; there is little doubt that livestock grazing is causing severe loss of aspen regeneration; yet the agency is not proposing to remove livestock; the proposed stimulation of aspen sprouting will ultimately lead to further decline of aspen, as they use limited resources to regenerate sprouts which is ultimately be destroyed.

We are incorporating "by reference" our 7/6/21 scoping comments for the ANF Aspen Restoration Project, in order to avoid repetition.

6. Remedy

Due to the violations of the NEPA, the Roadless Rule, the National Forest Management Act (NFMA), the Administrative Procedures Act (APA) and the Endangered Species Act (ESA), the ANF Aspen Restoration Project should be withdrawn in its entirety.

7. Description of How the Proposed Project Violates Environmental Law, Regulation or Policy

I. The proposed aspen restoration project on the ANF will violate the NEPA, the NFMA, the APA, the ESA, and the Roadless Rule.

1. The use of a programmatic EA is invalid.

There are no regulations that allow the actual use of a programmatic EA. The many required functions of an EA are not being achieved with this programmatic EA. Examples include a failure to evaluate site-specific impacts and inform the public as to how a site-specific project will impact resources, including wildlife. There are no treatment units identified. There have been no wildlife surveys completed for treatment units, essential in order for the agency to define baseline conditions. What wildlife species are present in proposed treatment units, and why will treatment restore their habitat? The roads that will be used for treatments were not mapped. The need for road reconstruction on roads in IRAs was not defined. The areas that will be impacted with heavy equipment in IRAs were not mapped. The level of utilization by livestock on aspen in proposed treatment areas was not identified. The percentage of conifers in proposed treatment units was not defined. The size in dbh of trees that would be cut was not defined per treatment unit. The current weed populations, as well as cheatgrass, in planned treatment units was not provided; this failure includes a discussion as to why weeds have not yet been eliminated, but will supposedly be eliminated post-project. The agency did not define how the massive personnel and financial requirements to implement a 20-year project would be met, including the ability to do wildlife surveys on roughly 8-17 thousand acres of aspen stands a year. The almost complete lack of any actual information on how this project will be implemented is a severer NEPA violation.

2. The agency failed to include any action alternatives that addressed public issues.

Objectors provided extensive scoping comments on the proposal. We raised a specific issue about violation of the Roadless Rule, since the proposal treatments are 83% in IRAs. Yet the agency did not include any alternative, in response to public issues, for an alternative that did not include management intervention into IRAs. An alternative that did not include management actions in IRAs would also address our claims that there is no valid ecological reason for the Forest Service to treat aspen stands in IRAs to create different age classes, prevent catastrophic fire, and increase the diversity of wildlife species. The reason aspen stands lack regeneration is because of livestock browsing year after year on grazing allotments. A valid restoration alternative would remove and/or significantly reduce livestock browsing on aspen. Yet there was no alternative that would address this issue.

3. The agency is violating the Roadless Rule with the proposed aspen treatments.

The planned massive intervention of IRAs with management actions is based on an agency claim that the Roadless Rule exception to these interventions, (b)(1)(ii), applies. This direction states that (a) timber may not be cut, sold, or removed in inventoried roadless areas of the National Forest Systems, except as provided in paragraph (b) of this section. Paragraph (b) reads Notwithstanding the prohibition in paragraph (a) of this section, timber may be cut, sold or removed in inventoried roadless areas if the Responsible Official determines that one of the following circumstances exists. The cutting, sale or removal of timber in these areas is expected to be infrequent. (1) the cutting, sale or removal of generally small diameter timber is needed for one of the following purposes and will maintain or improve one or more of the roadless area characteristics as defined in Section 294.11; (i) to improve threatened, endangered, proposed or sensitive species habitat, or (ii) to maintain or restore the characteristics of ecosystem composition and structure, such as to reduce the risk of uncharacteristic wildfire effects, within the range of variability that would be expected to occur under natural disturbance regimes of the current climatic period.

In spite of the agency's claim that this Roadless Rule exemption applies to the aspen restoration project, no actual analysis was provided to verify this claim. The inference that creating a "diversity of aspen age classes" is a restoration activity in IRAs was never supported with any analysis. Given that aspen naturally maintains many age classes within or immediately adjacent to a given clone, it would be unnatural to instead try to convert aspen habitats to single age classes. As was noted in the Region 4 old growth description for aspen (USDA 1993), old growth aspen contains an understory of aspen seedlings and saplings, and as such, even as old growth, has multiple age classes and naturally regenerates without intervention. In a large survey of aspen age classes in Montana, it was noted that these stands contained a large diversity of sizes and ages (Steed and Kearns 2010). In addition to the fact that managing aspen so that clones all represent different age classes, this type of management would require permanent, perpetual management intervention, which clearly conflicts with natural management of IRAs. This type of management intervention would not provide the large, undisturbed habitats for wildlife,

The many vague claims for intervention noted in the EA and Response to Comments (e.g., page 59-60) are never supported with any information, including what criteria will measure attainment of these qualities due to treatment. There is no substantiation of any of the claimed benefits, including benefits to wildlife diversity. As was noted in our scoping comments, there are 37 wildlife species associated with aspen stands (also see summary by Flack 1976 and Scott and Crouch 1976). Any claims of wildlife benefits clearly need some type of analysis, as this is a very complex issue.

The EA does not address how management intervention will improve habitat for threatened and proposed wildlife species, or sensitive species. Cutting and burning of aspen stands will eliminate snags for sensitive species as the flammulated and boreal owls, as well as the MIS red-naped sapsucker. It is illogical to claim that removing snag habitat is a wildlife benefit. In addition, massive disturbances in IRAs is clearly not beneficial for the wolverine, a proposed species that occurs on the Ashley National Forest, as well as the lynx, another proposed species that occurs on the Ashley National Forest. The agency side-stepped this requirement for management intervention in IRAs by claiming that the wolverine and lynx do not occur on this forest. It also claimed that boreal owls do not occur in aspen stands, but clearly, they would nest in large conifer snags that occur in mixed aspen/conifer stands.

These large snags will also be critical to the Bird of Conservation Concern the Williamson's sapsucker, not just in large old aspen trees but in large conifer snags in mixed conifer stands. The agency clearly failed to define why management intervention of aspen in IRAs is needed to restore these species.

The agency never directly addressed the existing problem of aspen in these IRAs, which is over-browsing by livestock, which is preventing these stands from regenerating, and instead, have just old trees present. The October 2019 report on this proposed project notes at page 1 under existing vegetation conditions: **"We are typically seeing successful regeneration."** It goes on to provide the opposite claim, that "we are seeing little recruitment of new aspen in these stands." This 2019 report on the proposed restoration project shows what is actually going on in these stands: overbrowsing by cattle is preventing aspen sprouts from ever reaching mature status. This is a well-established problem with aspen. For example, Shepherd et al. (2006) noted that it has been shown that domestic livestock consume aspen with increasing pressure through summer and early fall as preferred forage decrease in volume and nutritional quality; this browsing can be very severe, especially on young succulent sprouts; repeated heavy browsing will lead to bush, multi-stemmed aspen shrubs, leaving them susceptible to browsing year after year until it ceases or the aspen eventually disappear. Steed and Kearns (2010) reported from an extensive review of aspen damage factors in Montana and North Idaho that grazing damage was the primary damage agent. Bartos and Campbell (1998) long ago noted that one of the problems with aspen retention on landscapes is the long-term overuse by ungulates, which would include cattle. This article includes Figure 19 that shows a fenced and unfenced aspen stand; the fenced stand is vigorous with thousands of aspen sprouts, while the unfenced stand have almost no aspen sprouts. This article notes that **"Actions (treatments) to induce suckering must not be initiated until excessive browsing is controlled"**). And as noted by Shepherd et al. (2006), grazing management is a critical issue in aspen type, and that timing and intensity of livestock use is critical as it relates to aspen regeneration and wildlife values. Also, the October 2019 project report at page 34 notes that "if grazing thresholds on aspen sprouts are exceeded, consider additional management actions to protect the aspen regeneration and how the scale and timing of future treatments may be adjusted to avoid heavy browsing pressure."

The Monroe Mountain Aspen Treatment Project on the Manti La Sal National Forest (available on web) noted that overbrowsing was one of the primary underlying causes for a lack of aspen recruitment. Yet, in spite of the well-documented problem of loss of aspen recruitment due to livestock, the agency has not proposed any management of grazing in order to allow aspen stands to successfully regenerate, including in IRAs.

Vague claims that aspen treatments will improve wildlife habitat in the EA and BE/BA are never supported with any actual analysis. This includes the inference that removing conifers from aspen stands will benefit wildlife. No actual information was provided for this claim. It is clearly a false narrative, as aspen/mixed conifer stands have a very high value to wildlife, including providing conifer seed sources for many birds and small mammals. Conifers in aspen stands provide hiding cover for wildlife, which reduces predation (e.g. Goheen and Swihart 2005). Conifers in aspen provide preferred nesting sites for species as the Bird of Conservation Concern the Williamson's sapsucker (Conway and Martin 1993), and low-density raptors as the sharp-shinned hawk (Joy et al. 1994). And conifers in aspen stands create larger-sized snags, which are important to many forest birds. This is likely why mixed conifer/aspen stands of lodgepole pine have been reported to contain a higher diversity of birds than either aspen or lodgepole pine stands (Scott and Crouch 1988).

And, in spite of the unsupported rationale for management intervention in IRAs to remove conifers from aspen stands, the agency first did not provide any inventory data as to what the current level of conifers is within the 177,707 acres proposed for treatment. And in fact, the agency noted in the project's Response to Comments, page 23, that "conifers are few and scattered in the dominant aspen stands."

As noted in our scoping comments, aspen and mixed conifer/aspen stands have a high value to many wildlife species. Cutting out and removing aspen will certainly not benefit any of these species. Given the current level of concern about North American landbirds, where 64% of 67 species of western forest birds are in decline (Rossenberg et al. 2019), the massive treatment of aspen stands on the ANF will clearly have very severe, very significant adverse impacts on most of these species, including within IRAs.

It appears that instead of targeting conifers for removal with logging, that the agency is actually targeting aspen stands for logging in these IRAs. As is

noted in the final EA, Table 1 (pages unnumbered), acres within roadless areas within 1000 feet of a road and less than 40% slope (potential for commercial treatment); these include 24,884 acres. So it appears that this aspen restoration project is actually an aspen logging project anywhere near any roads. The type of roads that can be used for logging access are not mapped or defined.

4. The agency is violating the NEPA and the APA by providing false information and a purpose and need of the aspen restoration project to the public.

As is noted in section 3 above, the need for aspen management, including within IRAs on the ANF, is to remove livestock browsing so that these old stands can finally regenerate. Although wildlife browsing would still occur, it would occur under natural levels of browsing that were changed when livestock grazing was introduced into these landscapes. This problem was never actually even acknowledged by the agency. So the proposed purpose for the project is false, and extremely misleading to the public. And the purposed solution, to stimulate aspen sprouts that will then be destroyed by continued livestock grazing, is a violation as well of the APA, because the proposed project will have exactly the effects that the agency is claiming will occur. It also appears that one purpose of the project is to log aspen stands in IRAs for commercial purposes. This is a direct violation of the Roadless Area Rule, as well as misrepresentation of the project to the public.

5. The agency failed to define why 177,707 acres of aspen treatments is consistent with the current ANF Forest Plan, or can actually be implemented as planned; the agency has no baseline data on which to even estimate what project impacts will be on wildlife, due to a lack of monitoring of past aspen treatments.

The current ANF Forest Plan does not address, nor evaluate, massive intervention treatments in IRAs, or as well, massive treatments of aspen stands. None of the affected Management Areas that will be impacted by the proposal allow this type of treatment, and thus treatments will trigger Forest Plan violations. Given that these massive treatment programs are not identified in the existing ANF Forest Plan, the agency cannot provide the

public with any rationale as to why this project is being proposed. Management of the forest is supposed to be based on the Forest Plan.

We also note that the agency has not provided any documentation that this project could be implemented as planned. Up to the present, the agency has treated roughly 1,000 acres a year of aspen, for a total of about 10,000 acres of treatment. Now the public is expected to believe that the agency is going to increase the acres treated per year by roughly 9-18 times. The agency defines how in the future, assessments and monitoring will be done for each site-specific treatment area. This monitoring and assessments will require massive increases in personnel for on-the-ground work. To date, we have been able to find only one monitoring report on the AFN web page, for the year 2013 published in 2015. Other monitoring reports cited in the EAs are not available on the web, such as the Ashley National Forest Monitoring Studies, cited on a unnumbered page of the 2022 EA, or were actually done on other forests regarding birds. This EA notes that there have been 1,171 long term study plots within aspen stands, but none of this information was made available to the public. Although the BE claims that the treatments will improve habitat for 2 MIS, the warbling vireo and red-naped sapsucker, species identified as "obligate aspen species," we could find not monitoring results on the forest that would support this claim. Without any baseline data on impacts of the proposed project on wildlife, the agency has no basis for planning treatment of 177,707 acres of aspen habitats on the Forest.

The EA does not define how this massive increase in personnel requirements, including for wildlife surveys, is going to be met. If in the past, biologists have surveyed roughly 1,000 acres of planned treatments per year, how will they now inventory 8-17 thousand acres per year? Is the agency planning on hiring 8-17 times more biologists? How will the surveys be done for treatment areas, to determine if aspen sprouts are surviving? Does the agency have the required personnel to complete these expansive surveys? And for weed surveys, how will these be done on such a large scale? After implementation, how will all the claimed monitoring be accomplished annually on these treated acres? How will noxious and invasive annuals be monitored and treated on 8-17 thousand acres per year? This proposal is a violation of both the NEPA, the NFMA, the APA, and the ESA because the agency failed to demonstrate that the claimed inventories and monitoring requirements of this proposal can be actually met by the agency without a massive increase in dollars. The EA does not indicate this massive increase in dollars to implement this program is expected.

6. The proposed aspen treatment program will create numerous violations of the NEPA in addition to those already noted.

The timeliness requirement of the NEPA will be violated with this project, which is reportedly estimated to last up to 20 years. Actual requirements for completion were not actually estimated. However, since to date the Forest has only treated about 1,000 acres per year, treating 177,707 acres could conceivably take dozens and dozens of years. What if various wildlife species are listed under the Endangered Species Act (ESA) during project implementation? How will the current best science be applied to the project, if this science is 20 years old? The timeliness of NEPA is generally 5 years, which ensures that changes in environmental conditions and new science will be addressed in project planning and implementation.

The agency has done no inventory work yet, but has somehow determined that 177,707 acres of aspen need treatment to restore health for the trees and wildlife. These assessment will be done "in the future," as time allows over the next 20-plus years, at which time the agency will determine the type of treatment that the aspen stand needs. The agency has already determined these stands need treatment without any actual analysis. This includes any baseline information for the project area, information that is essential in order for the public to understand why changes in these baseline conditions are required. One baseline condition that has been completely ignored in the EA is the current distribution and mapping of noxious weeds and invasive annuals. As a part of this information, the agency needs to define why these plant populations have not yet been eradicated, and as such, why the agency will eradicate new populations triggered by logging and burning. Also, the agency has not provided any thing but vague claims of benefits to wildlife from the various types of treatments that are planned in aspen. Even though up to and over 37 species of birds can be severely impacted by aspen treatments, the agency failed to provide any credible analysis of these species and likely impacts, including Forest MIS the warbling vireo, goshawk, and red-naped sapsucker.

One particular lack of inventory information that is currently available on the ANF is the location of at least 63 goshawk territories. These areas were not mapped or otherwise identified in the EA. As was reported on the Manti La Sal National Forest, 70% of goshawk nests have been located in aspen trees (Gato 2021). The current trend of goshawks on the ANF is unclear, and although the agency claims the Forest Plan guidelines for goshawks prevents any adverse impacts, no monitoring data was ever provided to demonstrate this claim. The prey species that supposedly will remain unaffected by the aspen treatments were never identified.

Finally, the agency is misleading the public as to the purpose of the project. Although the agency recognizes that browsing by livestock is the reason aspen stands are failing to regenerate, an almost universal problem in the western US that the agency is clearly aware of, the agency instead is claiming to the public that the proposed treatments instead of livestock removal is needed to create the missing aspen sprouts. In other words, the agency is providing a false rationale to the public for the project. Worse, the agency would clearly be exacerbating the aspen problem by stimulating sprouts without protecting them from continued livestock browsing. This is essentially an aspen extinction, not restoration program.

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