



Submitted via project portal at:
<https://cara.fs2c.usda.gov/Public/CommentInput?project=58081>

September 14, 2023

Jennifer Abernathy
NEPA Planner
Ochoco National Forest
3160 NE 3rd Street
Prineville, OR 97754

Re: Mill Creek Dry Forest Restoration Project, Draft Environmental Assessment,

Dear Ms. Abernathy:

WildEarth Guardians respectfully provides the following comments regarding the draft environmental assessment (DEA) for the Mill Creek Dry Forest Restoration Project. The proposed action is to conduct vegetation management activities on national forest lands across the 36,430-acre Mill Creek Project Area of the Lookout Mountain Ranger District on the Ochoco National Forest (Ochoco). The purpose and need for the proposed action includes enhancing and restoring stream channels and riparian areas and aligning road maintenance levels with the Ochoco Travel Plan.

WildEarth Guardians (Guardians) is a nonprofit conservation organization with offices in Oregon, Washington, and five other states. Guardians, with more than 175,000 members and supporters across the United States, works to protect and restore the wildlife, wild places, wild rivers, and health of the American West. Guardians and its members have specific interests in the management of the Ochoco. We believe that thoughtful, careful management of old and large trees and closure and decommissioning of additional roads are critical to improving the health of the Ochoco.

1. The Forest Service's Analysis of the Mill Creek Dry Forest Restoration Project Cannot Tier to or Otherwise Rely on the 2021 Eastside Screens Amendment.

The DEA states that the "Eastside Screens were revised in January 2021 replacing a 21-inch tree diameter limit with a guideline for timber sales outside of LOS that emphasizes recruitment of old trees and large trees (USDA Forest Service 2021)." DEA, 5. Judge Hallman of the District of Oregon recently ruled that this 2021 amendment, or revision, to the Eastside Screens, which eliminated the 21-inch rule, was unlawful under the National Forest Management Act (NFMA), National Environmental Policy Act (NEPA), and the

Endangered Species Act (ESA), and that the 2021 Eastside Screens Amendment should be vacated. *See Greater Hells Canyon Council v. Wilkes*, Case No. 2:22-cv-00859-HL, ECF 97 (August 31, 2023). Vacatur of the Screens Amendment results in the reinstatement of the 21-inch rule as the controlling Ochoco Forest Plan standard with which this project must be consistent. 16 U.S.C. § 1604(i). The Mill Creek Dry Forest Restoration Project will violate the Ochoco Forest Plan, and therefore the NFMA, if it authorizes the cutting of any trees greater than 21 inches in diameter.

2. The DEA failed to take a hard look at the project's impacts to climate change.

The DEA notes that this project would “affect between 13,293 and 13,420 acres of forest by commercially thinning and noncommercially thinning smaller trees from the stand.” DEA, 231. It nonetheless concludes that

a project of this magnitude makes an infinitesimal contribution to overall emissions. Therefore, at the global and national scales, this proposed action’s direct and indirect contribution to greenhouse gasses and climate change would be negligible. In addition, because the direct and indirect effects would be negligible, the proposed action’s contribution to cumulative effects on global greenhouse gasses and climate change would also be negligible.

Id. Such flippant analysis simply doesn’t cut it. A recent decision from the federal district court in Montana found that the Forest Service’s NEPA analysis of a forest restoration project’s climate impacts that relied on words such as “infinitesimal” failed to take a hard look at such impacts. Specifically, the court explained that “[w]ith all in agreement that climate change as a result of carbon emissions is an increasingly serious national and global problem . . . the USFS has the responsibility to give the public an accurate picture of what impacts a project may have, no matter how ‘infinitesimal’ they believe they may be.” *Ctr. for Biological Diversity v. U.S. Forest Serv.*, No. 22-cv-00114-DWM, slip. op. at 32 (D. Mont. Aug. 17, 2023). The court noted that reductions in greenhouse gas emissions “must happen quickly” and “removing carbon from forests in the form of logging, even if the trees are going to grow back, will take decades to centuries to re-sequester.” *Id.* at 31. In other words, “logging causes immediate carbon losses, while re-sequestration happens slowly over time, time that the planet may not have.” *Id.* at 32.

The accumulation of carbon in forest ecosystems is crucial for mitigating ongoing climatic change, with large-diameter trees storing disproportionately massive amounts of carbon in forests worldwide. Globally, forests removed the equivalent of about 30 percent of fossil fuel emissions annually from 2009 to 2018 and while boreal and tropical forests have received a great deal of attention, 44 percent of the carbon removed by forests from 2009 to 2018 is attributed to temperate forests such as the Ochoco (Friedlingstein et al., 2019). Harvest practices can substantially alter carbon storage and accumulation (Kauppi et al., 2015; Masek et al., 2011; Turner et al., 2011; Krankina et al., 2012; Law et al., 2018). There is a negative relationship between harvest intensity and forest carbon stocks whereby as harvest intensity increases, forest carbon stocks decrease while emissions increase (Hudiburg et al., 2009; Mitchell et al., 2009; Simard et al., 2020). It can take centuries to re-

accumulate forest carbon stocks reduced by harvest (Birdsey et al., 2006; McKinley et al., 2011), and climate mitigation targets need to be met in the next few decades. The Forest Service must use the best available science to inform the public and the decision maker of what impacts this project will have on carbon storage—and therefore climate change—in the next 20-30 years.

3. The DEA should have considered a range of alternatives regarding road closure and decommissioning.

One of the purposes of the project is to align road maintenance levels with the travel management plan. DEA, 3. The provided alternatives offer very little variation of action to achieve that purpose. All three alternatives would close 1.86 miles of road, decommission between 3.26 and 4.13 miles of road. These numbers are tiny, given the size of the project area.

The Forest Service is required to evaluate the project's roadwork component in accordance with the Travel Management Rule. To do this, the agency must demonstrate how the project's road network is consistent with the 2015 Ochoco National Forest Travel Analysis Report and identify the minimum road system for the project area. The minimum system is the road system determined to be needed to meet the objectives adopted in the Ochoco Forest Plan "to reflect long-term funding expectations, to ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance." 36 C.F.R. § 212.5(b)(1).

The agency cannot rely on the fact that road density in the project area meets the Forest Plan standard to avoid analyzing alternatives that go further in minimizing the project area's road network. The density standard serves as a legal ceiling for road density, not a floor. Further, achieving the Forest Plan standard does not absolve the agency of the separate obligation to ensure that the project area's roads minimize adverse environmental impacts. Alternatives that included more miles of closed and decommissioned roads would help interested parties understand whether the project is minimizing adverse impacts associated with managing the road network in the project area, in compliance with the Travel Management Rule.

Conclusion

We appreciate the Forest Service's time and attention considering these comments and urge the agency to forego the Mill Creek Dry Forest Restoration Project because it has not taken a hard look at the specific climate change impacts of the project or considered alternatives that would close and decommission additional roads in the project area. Finally, we wish to remind the Forest Service that it cannot authorize cutting any tree greater than 21" in diameter because a court recently found the agency violated the ESA, NFMA, and NEPA when it amended the Eastside Screens prohibiting the cutting of such trees on the Ochoco and other national forests in eastern Oregon.

Sincerely,



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