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November 30, 2023

Theresa Tanner, District Ranger
Cowlitz Valley Ranger District
PO Box 670
Randle, WA 98377

Re: Comments on the Yellowjacket Project Revised Environmental Assessment

District Ranger Tanner:

WildEarth Guardians (“Guardians”) submits these comments regarding the U.S. Forest Service’s Revised Draft Environmental Assessment for the Yellowjacket Project in the Gifford Pinchot National Forest. 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. Mixed-use roads

Guardians is pleased that the Forest Service dropped its plans of designating approximately 60 miles of open Forest Roads to allow off-highway vehicles (OHVs). An increase in motorized recreational use would disrupt otherwise quiet forest landscapes, impacting other recreational users who seek solitude when visiting their national forests. Increased motorized recreation would also likely significantly disturb and displace wildlife and disrupt wildlife habitat. While the plans for designating roads for OHV use is on hold for now, the Forest Service is leaving the door open for such designations in a separate analysis at some later date. However, we urge the Forest Service to drop such plans altogether to maintain quiet forest landscapes for wildlife and non-motorized recreation opportunities.

II. The Forest Service should identify a minimum road system that minimizes adverse environmental impacts and consider reasonable alternatives related to the 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.

In developing the purpose and need for the project, the Forest Service acknowledged its obligation to “address the transportation system maintenance needs, environmental risks and long-term funding expectations within the project area.” Revised EA 1. Unfortunately, the Forest Service does not identify a minimum road system in the Revised EA that ensures adverse environmental impacts are minimized. This is a missed opportunity and we urge the Forest Service to identify a minimum road system for the project area in the final EA and to consider a reasonable range of alternatives related to achieving a minimum road system.

Relatedly, the Forest Service initially planned to decommission 33 miles of roads in the project area (EA 15) but now only proposes to decommission 11.35 miles. Revised EA 10. The Forest Service’s brief rationale for such a significant reduction in proposed road decommissioning is “future potential needs for a road.” EA v. This is unfortunate, especially since the Forest Service says the need for the proposal is based on Climate Change Vulnerability and Adaptation in Southwest Washington (Hudec J. H., 2019). Revised EA 1. That report stresses the need to rectify forest roads in southwest Washington to minimize impacts and restore habitat, including through decommissioning. *See* Hudec 2019 at 230-34. Reducing the miles of road decommissioning by two-thirds is moving in the opposite direction called for in Hudec 2019. We urge the Forest Service to restore the original proposal to decommission 33 miles of roads and consider additional opportunities to restore habitat for threatened Lower Columbia River steelhead trout, Lower Columbia River Chinook salmon and coho salmon.

III. The Forest Service must protect mature and old growth forests while the agency completes its national inventory and rulemaking.

In April 2022, 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”). The revised EA does not include EO 14072 in its list of laws, regulations, and policies guiding this analysis. *See* Revised EA 44. Nor does the revised EA contain any discussion of this executive order. This is a significant oversight, particularly since the Forest Service recently published its initial inventory of mature and old-growth forests that should inform this analysis (see below).

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.

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) (Ex. 2). 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.

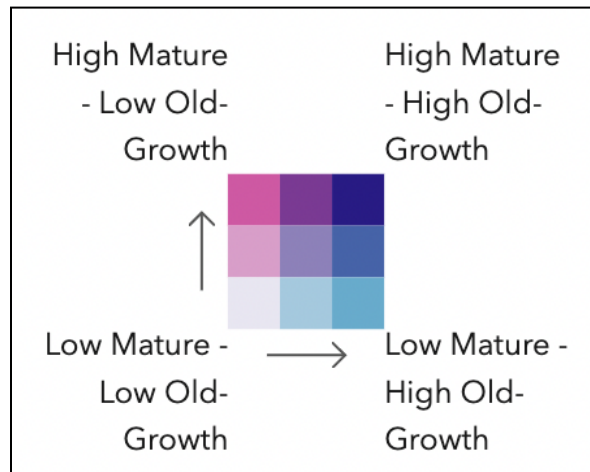
Contemporaneous to the publication of the MOG Report, the Forest Service also published an advance notice of proposed rulemaking (ANOPR) that, in part, “[b]uilds on ongoing work to implement” EO 14072. *See* Organization, Functions, and Procedures; Functions and Procedures; Forest Service Functions, 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”¹ 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.”² *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.*

¹ The Forest Service Climate Risk Viewer is available at: <https://storymaps.arcgis.com/collections/87744e6b06c74e82916b9b11da218d28?item=8>.

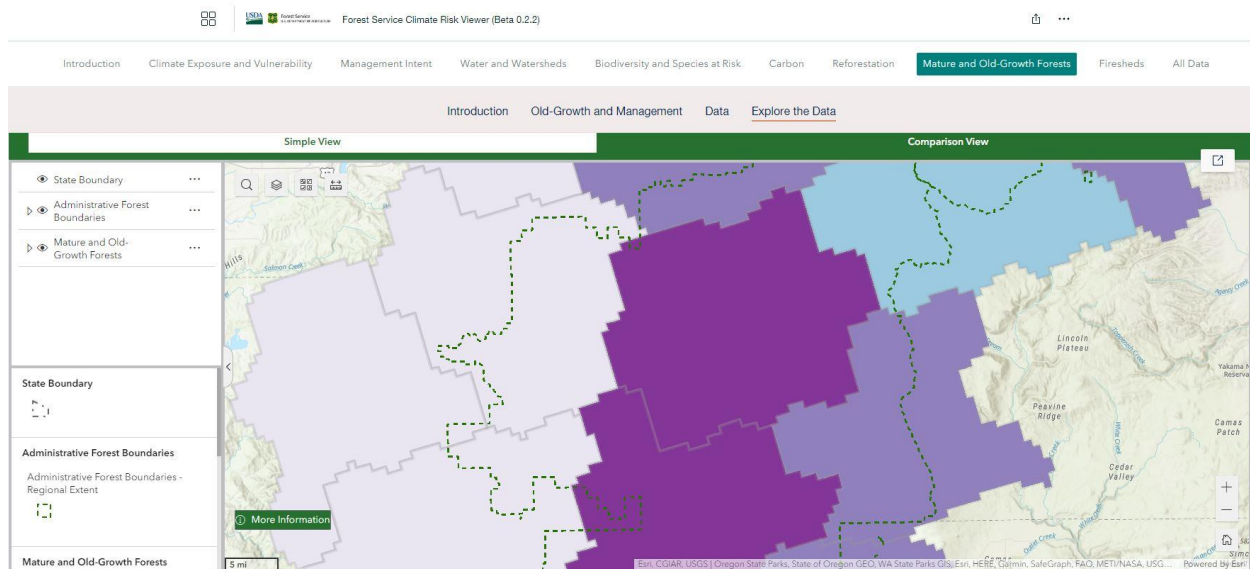
² The initial inventory for Oregon is based on FIA data from 2008-2019. MOG Report 62.

Figure 1: Mature and Old-Growth Estimates in Forest Service Climate Risk Viewer.



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

Figure 2: Approximate Location of Yellowjacket Project in the Forest Service Climate Risk Viewer.



As explained above, these forests provide “nature-based climate solutions” for mitigating the effects of anthropogenic climate change. MOG Report 3. The Forest Service needs to consider this information and compare it with the data it relied on in preparing the revised EA to determine whether it is accurately accounting for the extent of mature and old-growth forest within the project area. 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). 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.

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). The Regional Office’s review and withdrawal of the Flat Country Project ROD should lead the Gifford Pinchot National Forest to hit the pause button on any logging of mature and old-growth trees and forests in the Yellowjacket Project area.

Sincerely,



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