



**ROCKY MOUNTAIN  
ELK FOUNDATION**

February 1, 2024

Director, Ecosystem Management Coordination  
USDA Forest Service  
201 14<sup>th</sup> Street SW  
Mailstop 1108  
Washington, DC 20250-1124

RE: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System

The mission of the Rocky Mountain Elk Foundation (RMEF) is to ensure the future of elk, other wildlife, their habitat and our hunting heritage. We represent more than 225,000 members nationwide, many of whom recreate within U.S. Forest Service (USFS) lands. Since its inception in 1984, RMEF has conserved or enhanced more than 8.9 million acres of North America's most vital habitat for elk and other wildlife. In partnership with the USFS, RMEF has conserved or enhanced more than 3.7 million acres across USFS-administered lands and opened or improved public access to over 363,000 acres. Together, the combined value of RMEF-USFS cooperative efforts exceeds \$369 million.

RMEF appreciates the opportunity to comment on the Notice of Intent: Land Management Direction for Old-Growth Forest Conditions Across the National Forest System (NOI). RMEF supports the USFS efforts to improve consistency in forest planning and practices and appreciates that multiple steps have been taken to engage stakeholders. RMEF offers the following suggestions to improve both the rulemaking process and the information being used to inform the proposed action.

In 2023, the USFS invited public feedback through the Advance Notice of Proposed Rulemaking (ANPR) regarding how to adapt current policies to protect, conserve, and manage the national forests and grasslands for climate resilience, so that the USFS can provide for ecological integrity and support social and economic sustainability over time. The USFS also released the beta version of the Climate Risk Viewer. RMEF provided comment at that time, with concern about the purpose and need of the rulemaking, as the USFS recognized that current practices integrate components to achieve what is outlined in the proposed action. The Climate Risk Viewer also identifies several ways in which climate resiliency is already incorporated in USFS planning and NEPA. RMEF again requests the USFS to explicitly identify gaps in existing policy and practices that fail to address the risk/threats.

RMEF also continues to caution the use of the Climate Risk Viewer. While an initial inventory of mature and old growth forests has been released, age classification was based on inconsistent interpretations or new definitions that lack a foundation in science. Many of the datasets used in the climate risk assessment are incomplete and recognized as outdated science. RMEF strongly cautions the USFS's use of this data to set policy, including forest plan components.

In RMEF's 2023 comments, we also raised concern about information/assessments that were not made available for public review. Following the initial inventory of mature and old growth forests, the next step identified in E.O. 14072 and the Secretarial Memo (1077-044) is to 'Identify threats to old-growth and mature forests on Federal lands from wildfires, insects and disease, drought, invasive species, and other 21st century stressors.' RMEF's previous comments asked the USFS to pause the rulemaking process until the risk/threat analysis is completed and fully available for public review.

The current NOI indicates that the threat analysis has been complete, and information contained in the report significantly informed the proposed action. Yet, the report is still unavailable for public review. The USFS website for old growth information indicates: 'The Forest Service and BLM have completed an initial threat analysis for mature and old-growth forests and are drafting a report for publication in early 2024. A summary of this report is also forthcoming.'

Failure to make the threat analysis public prior to proposing plan components, based on this analysis, violates the requirement of USFS transparency in public rulemaking. This creates a lack of trust in the USFS's use of best available science in a proposed action that affects all 128 forest plans. Without understanding what the risks/threats are, and where they are greatest, stakeholders cannot properly review this new proposed action. RMEF asks the USFS to redact this NOI until all the critical documents are available to conduct a proper public review.

The proposed action suggests an intent to limit management action associated with tree cutting, regardless of size or age. In addition, there is language that would exclude 'commercial' harvest. This is despite USFS recognition that the initial risk analysis 'found that mortality from wildfires is currently the leading threat to mature and old-growth forest conditions, followed by insects and disease. The analysis found that tree cutting is now a relatively minor threat compared to climate amplified disturbances such as wildfire, insects and disease.' The NOI recognizes the use of prescribed fire to help meet desired conditions, however, lacks clarity on the use of various 'tree cutting' treatments. RMEF asks for increased clarity on what types of treatments would be supported under the proposed action.

As written, it is unclear how the proposed action will impact seemingly unrelated components in forest plans. The NOI suggests that in addition to vegetation, watershed, and ecologically related plan components, the following sections may also be impacted:

- 36 CFR 219.8(b) – Social and economic sustainability, including the analytical requirements of 219.8(b)(1 through 6);
- 36 CFR 219.10(a) Ecosystem services and multiple use (including analytical requirements 1 through 10);
- 36 CFR 219.10(b)(1)(i) Recreation settings, opportunities, access, and scenic character.

RMEF expresses concern that the impact of the proposed action will conflict with the USFS multi-use mandate and requests that the USFS fully address these impacts within National Forest Management Act's requirement to 'provide for multiple use and sustained yield of products and services consistent with the Multiple-Use Sustained-Yield Act' and insuring 'consideration of economic and environmental aspects of various systems.'

## Comments Specific to the Proposed Plan Components

Overall, RMEF finds the proposed plan components overly prescriptive to be applied to all 128 forest plans. RMEF maintains our opposition to a national definition or policy for mature and old growth forests, as it would not sufficiently account for the diverse ecological systems represented across USFS-administered lands. Instead, RMEF recommends retaining the proposed ‘framework’ components provided in goals, management approaches, and desired conditions and removing the standards and guidelines that are not applicable to many forest systems. Determination of restricted actions (through standards and guidelines) in a forest plan should be made at the forest level in order to be most relevant and to support successful implementation of the forest plan. In addition, several components provide vague direction, use jargon and undefined terms, and include actions that are either not possible to implement or are not measurable, thus leaving the forests open to litigation. RMEF offers the following suggestions specific to the plan components.

### **Desired Conditions**

1. ‘The amount and distribution of old-growth forest conditions are maintained and improved relative to the existing condition over time, recognizing that old-growth forest conditions are dynamic in nature and shift on the landscape over time as a result of succession and disturbance.’

RMEF Comment: This component requires conditions to be maintained or improved relative to the *existing condition* over time. Clarification is needed to identify what time period is referenced for ‘existing condition’ and what data provides this baseline. RMEF cautions using the initial USFS inventory as existing condition. The USFS recognized this inventory as incomplete and not for use for on-the-ground baseline measures.

3. ‘Carbon stored in old-growth conditions contributes to the long-term carbon storage, stability, and resiliency of forest carbon across the National Forest System.’

RMEF Comment: This desired condition should be removed as it cannot be measured or achieved as written.

### **Standards**

1. ‘Vegetation management activities must not degrade or impair the composition, structure, or ecological processes in a manner that prevents the long-term persistence of old-growth forest conditions within the plan area.’

RMEF Comment: The construct of this standard leaves management action open to interpretation, rather than setting clear constraints. A manager cannot measure nor effectively predict if a management activity will prevent the long-term persistence of old-growth. If the action is ‘intended’ to prevent the long-term persistence of old growth, then that would disqualify that activity. As written, each project level NEPA assessment will have a different response in determining whether a vegetation management action will or will not likely have long-term impacts. This sets the forests up for inconsistent approaches and decisions and, again, vulnerable to litigation.

2. a) 'Vegetation management in old-growth forest conditions must be for the purpose of proactive stewardship, to promote the composition, structure, pattern, or ecological processes necessary for the old-growth forest conditions to be resilient and adaptable to stressors and likely future environments. Proactive stewardship activities shall promote one or more of the following:
- i. amount, density and distribution of old trees, downed logs, and standing snags;
  - ii. vertical and horizontal distribution of old-growth structures, including canopy structure;
  - iii. patch size characteristics, percentage or proportion of forest interior, and connectivity;
  - iv. types, frequencies, severities, patch sizes, extent, and spatial patterns of disturbances;
  - v. return of appropriate fire disturbance regimes and conditions;
  - vi. successional pathways and stand development;
  - vii. connectivity and the ability of native species to move through the area and cross into adjacent areas;
  - viii. ecological conditions for at-risk species associated with old-growth forest conditions;
  - ix. the presence of key understory species or culturally significant species or values;
  - x. species diversity, and presence and abundance of rare and unique habitat types associated with old-growth forest conditions; or
  - xi. other key characteristics of ecological integrity.'

RMEF Comment: Standards are mandatory constraints on project and activity decision making to help achieve Desired Conditions. However, proposed plan components under 2(a) appear to identify categories for only when stewardship activities can occur. RMEF asks for clarity, as the assumption would follow that any activities outside of these parameters are not allowed (aside from the few exemptions drafted).

RMEF asks for clarity in nearly each of these proposed standards under section 2(a). For example, promoting the amount, density, patch size, canopy cover, types, frequencies, distributions, etc. are all left open to interpretation. Does the proposed action intend that each of the components be promoted to maintain current levels; or does it intend an increase in those measures? What types and frequencies and what are effective patch sizes or specific patch size characteristics? What is an appropriate fire disturbance regime and who determines that? The proposed components in this section cannot be achieved as written. In addition, this component seems to allow vegetation management in old-growth conditions for *proactive* stewardship only. This would preclude any *reactive* vegetation management in response to wildfire or other disturbances. RMEF asks for clarity as to the intent of these proposed plan components.

## Guideline

1. 'This guideline is intended to increase amounts and improve distributions and climate resilience of future old-growth forest conditions. It applies to areas that do not currently meet old-growth definitional conditions but that have been identified in the Adaptive Strategy for Old-Growth Forest Conservation as a priority for the future contribution of the development of those conditions over time. For the purposes of fostering an increasing trend in the amount, representativeness, redundancy, and connectivity of old-growth forest conditions such that future conditions will be resilient and adaptable to stressors and likely future environments, landscape-level proactive stewardship activities should, within the scope of meeting other desired conditions, and characteristic of the ecosystem, be developed for the following priorities and purposes:
  - a. To provide landscape-level redundancy and representation of old-growth conditions such that loss due to natural disturbance events does not result in a loss or isolation of the old-growth conditions at the landscape scale.
  - b. To retain and promote the development of resilient old-growth conditions adjacent to existing old-growth forest conditions, including for the purposes of reducing fire hazard, altering potential fire spread or fire severity, or reducing potential insect or disease outbreak that may spread to adjacent old-growth forest.
  - c. To enhance landscape and patch connectivity in forest conditions between old-growth condition patches where connectivity is poor or old-growth patches are isolated.
  - d. To retain and promote the development of old-growth conditions where current conditions are likely to provide old-growth conditions in the shortest timeframe possible.
  - e. To retain and promote the development of old-growth conditions in watersheds, fireheds, or other relevant landscape units where existing amounts and distributions of old-growth conditions lack resilience and adaptability to stressors and likely future environments.
  - f. To retain and promote the development of old-growth conditions in areas of likely climate refugia that are projected to have the inherent capability to sustain old-growth conditions.
  - g. To promote climate adapted species assemblages in areas where changing climatic conditions are likely to alter current conditions and change species assemblages over time.'

RMEF Comment: Several definitions are lacking and, as is, would confound components in existing plans. RMEF requests definitions for representativeness (Of species? Structure? Patches?), landscape scale, landscape and patch connectivity, climate refugia, etc. As already noted, standards and guidelines are meant to be very prescriptive and/or restrictive, with specific defined measures. As is, vague terminology will not allow forests to be successful in meeting these requirements, and again, vulnerable to litigation.

In summary, RMEF recommends the following:

- Redact this NOI until the risk analysis and all other critical documents are available to conduct a proper public review.
- Explicitly identify gaps in existing policy and practices that fail to address the risk/threats.
- Clarify how the Climate Risk Viewer data will or will not be used to set 'current conditions' or help establish other plan components.
- Clarify the intent of proposed plan components in restricting 'tree cutting' or other active management actions.
- Improve proposed plan components, as suggested, so they are achievable across various forest types.
- Remove suggested plan components to help forests reach desired conditions and avoid unnecessary litigation.

RMEF appreciates your consideration of these comments and looks forward to working with the USFS going forward.

Sincerely,

  
Blake L Henning  
Chief Conservation Officer