

Director  
Policy Office  
United States Forest Service  
201 14th Street SW, Mailstop 1108  
Washington, DC 20250-1124

July 20, 2023

Comments via Federal eRulemaking Portal [www.regulations.gov](http://www.regulations.gov)  
Supporting science and materials via U.S. Mail

Dear Forest Service:

The Partnership for Policy Integrity (PFPI), a nonprofit research and advocacy organization based in Pelham, MA, submits this comment in response to the US Forest Service's advance notice of proposed rulemaking on managing forests for climate resilience, 88 Fed. Reg. 24497-24503, RIN 0596-AD59 (April 21, 2023). A number of local and regional environmental organizations contributed specific examples used in these comments, including Blue Mountains Biodiversity Project, Friends of the Clearwater, Tennessee Heartwood, Wild Watershed, and the Klamath Forest Alliance. PFPI has mailed an electronic copy of the references cited for inclusion in these comments.

This comment is separated into two main parts. Part One discusses why the agency must incorporate responses from previous comment periods where the agency and the US Department of Agriculture have solicited public input. Part Two discusses the actions that the US Forest Service ("Forest Service" or "USFS") should take, or refrain from implementing, to manage national forests and grasslands for climate resilience. There are also two appendices attached. Appendix A lists a selection of projects that the USFS has recently approved or are currently under consideration that would allow logging in mature and old growth forests. Appendix B contains a background discussion of the best available science and information upon which our comments are based. Our recommendations span actions that can be executed with new rulemakings and actions that can be accomplished without promulgating a new rule or conducting a new environmental analysis.

Any rulemaking must comply with the Administrative Procedure Act (APA) and the National Environmental Policy Act (NEPA). Rules promulgated under the APA must be supported by facts and result from rational decision-making. Rational decision-making includes meaningfully considering the best available science and information received through the public comment process. Complying with the APA also includes soliciting future comment on the language of a proposed rule. Additionally, promulgating the type of rule suggested would be a major federal action with potentially significant environmental effects. For this reason, the Forest Service must prepare a draft environmental impact statement (EIS), analyzing alternative rule language and assessing those alternatives. We request that the Forest Service review the science provided and respond with independent, peer-reviewed science on different agency positions. PFPI further requests notification of any actions taken pursuant to this rule as required by NEPA.

The US Forest Service has asked for feedback on the following overarching question:

- Given that climate change and related stressors are resulting in increasing impacts with rapid and variable rates of change on national forests and grasslands, how should the Forest Service adapt current policies to protect, conserve, and manage the national forests and grasslands for climate resilience, so that the Agency can provide for ecological integrity and support social and economic sustainability over time?

While input on that question is provided below, the Forest Service should also refer to and incorporate public comments received in previous proceedings over the past two years. Since the beginning of the Biden Administration, the Forest Service has held several comment periods about how to address climate change and wildfire in the context of our public forests. Forest advocates and environmental organizations have repeatedly demanded protections of national forests at national, regional, and local levels. Advocates and organizations have supported these demands with science and information. These comments have extensively discussed protecting mature forests and habitat, helping communities effectively manage wildfire risks, and the problems with logging forests for fuel and climate mitigation. However, we do not see evidence that the Forest Service has responded to these comments or updated its policies to reflect the latest scientific understanding of forests and the climate. To the contrary, the Forest Service has actually rolled back protections for mature and old-growth forests in numerous instances, discussed in detail below.

An increasing body of evidence shows that less disturbed ecosystems are more resilient and biodiverse. While the Forest Service has traditionally “managed” forests by logging them,<sup>1</sup> responding to the climate and biodiversity crises will require a different approach. Conserving forests<sup>2</sup> rather than logging them is the best and most immediate mitigation for global warming and our biodiversity crisis. Our comments provide a review of the science along with real-world examples informed by groups on the ground who monitor these beloved areas. Based on science and experience, we recommend the following climate adaptations that can be accomplished without new rulemaking:

- Comply with the 1964 Wilderness Act and immediately cease the practice of bulldozing firelines into federally designated Wilderness;
- End logging in the national roadless areas;
- Halt the rollback of protective standards for old-growth in individual forest-plan revisions, and direct forest management plans to maintain or increase measurable, quantifiable, and enforceable standards to protect mature forests;
- End policies that promote extraction of wood for bioenergy, and stop promoting bioenergy use by the USFS itself.

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<sup>1</sup> Logging means cutting down or felling trees, or what the USFS refers to as vegetation management or timber harvest.

<sup>2</sup> By “conserve,” “conserving,” and “conservation,” we mean protecting forests—i.e., allowing them to continue through their ecological cycle without cutting and removing vegetation. These ecological cycles include natural disturbances and can create some of the most biodiverse habitat. Our definition of “conservation” means restraint from logging.

Utilizing new or ongoing NEPA processes and rulemaking, the Forest Service should do the following to protect and steward forests in our climate and biodiversity crises:

- Bring all national inventoried roadless areas under a single governance mechanism and amend the 2001 Roadless Area Conservation Rule (RACR) to reflect updated scientific consensus, eliminating the exceptions the Forest Service currently exploits to log in inventoried roadless areas;
- Designate new inventoried roadless areas in the East;
- Reinstate the Eastside Screens rule in the Pacific Northwest;
- Promulgate a nationwide rule that prohibits logging mature forests, defining “mature” as 55 years, and prioritize growing intact forests.

### **I. PREVIOUS PUBLIC COMMENT PERIODS FOR THIS RULEMAKING STILL REQUIRE RESPONSES FROM THE US FOREST SERVICE**

The USFS stated that it intends this rulemaking to complement and support Secretary Vilsack’s Memorandum 1077-004 from June 23, 2022: Climate Resilience and Carbon Stewardship of America’s National Forests and Grasslands. The memo was not available for public comment, but “intended to build on previous actions on climate change, equity, and forest resilience.”<sup>3</sup> The USFS has held other comment periods, either through the Federal Register or informally, including the following:

1. USDA Notice of Request for Public Comment on the Executive Order on Tackling the Climate Crisis at Home and Abroad, 86 Fed. Reg. 14403-14404 (Mar. 16, 2021);
2. USFS Wildfire Crisis Implementation Plan #NP-3172, comments requested by Jul. 6, 2022;
3. USDA Forest Service and DOI Bureau of Land Management Request for Information (RFI) on Federal Old-growth and Mature Forests, 87 Fed. Reg. 42493-42494 (Jul. 15, 2022).

Many organizations and advocates participated in these comment periods, including PFPI. We cannot list all of these previous comments here, but have included a selection of them under a folder labeled “Previous Public Comments,” with the electronic materials we mailed. We are not aware of any record of Forest Service responses to these previous comments. The Forest Service now proposes to build a rule or justify further agency choices from documents upon which the public commented or documents, such as Secretary Vilsack’s June 23, 2022 memo, which had no comment period. Building a rule using documents where the agency invited input means the Forest Service must now address the public’s previous comments and science. Both NEPA and the APA require such engagement.

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<sup>3</sup> Secretary’s memo p. 3 (Sec. 1.k.).

Relying upon the Secretary’s memo and documents above without addressing the scientific gaps and false assumptions embedded in those documents would result in a rule without adequate factual support. This rule would then fail to be the product of reasoned decision-making. These documents are also poised to drive decisions that could have significant environmental effects.

For the above reasons, failing to engage meaningfully with these previous comments would violate the National Environmental Policy Act and the Administrative Procedure Act.

## **II. STRATEGIES TO INCREASE FOREST ECOSYSTEM RESILIENCY TO THE CLIMATE AND BIODIVERSITY CRISES**

The Forest Service can employ multiple strategies to increase climate resilience of the forests it manages, most of which will also benefit biodiversity and ecosystem function. Some of these strategies are immediately available because they do not require new rulemaking or they can be incorporated into ongoing NEPA processes. Some of these strategies involve simply stopping or reducing actions that harm forests.

### **A. STOP CONSTRUCTING FIRE LINES IN FEDERALLY DESIGNATED WILDERNESS**

The Forest Service historically has authorized bulldozing fire lines in designated Wilderness. To adapt for climate change, however, the Forest Service should discontinue this practice. Wilderness is not at greater risk of fire. Constructing backcountry fire lines does not protect communities miles away from wildfires, and removing trees to install a feature the width of a road denudes soil and fragments habitat.<sup>4</sup> This construction also violates the 1964 Wilderness Act. The Act defines “wilderness” as “an area where the earth and its community of life are untrammelled by man” and where the agency manages “so as to preserve its natural conditions and which [] generally appears to have been affected primarily by the forces of nature with the imprint of man’s work substantially unnoticeable.” 16 U.S.C. §1131(c). Despite this statutory mandate, however, Forest Service officials have opted to use bulldozers to create fire lines in certain Wilderness areas instead of allowing wildfire to naturally burn through wilderness. For example, Forest Service officials justified bulldozing fire lines at Snow Mountain Wilderness in California – an aggressive strategy that the U.S. government’s wildland fire risk scientists determined was unlikely to succeed - because “officials and the public were sick of fire, and **they had to do something**.”<sup>5</sup> Ultimately, the fire burned through the fire line.<sup>6</sup>

The Snow Mountain Wilderness is not unique—the Forest Service has authorized bulldozing fire lines into other wildernesses (Figures 1a-1d)

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<sup>4</sup> See Appendix B, §B.

<sup>5</sup> FUSEE, “We Had To Do Something.”

<https://www.arcgis.com/apps/Cascade/index.html?appid=9a2cb83367a44609bf834ccfcee663dc&wmode=opaque> (emphasis in original).

<sup>6</sup> *ibid.*



Figure 1a



Figure 1b



Figure 1c



Figure 1d

Figure 1a: Fire line bulldozed in Mt. Shasta Wilderness during Lava Fire, California, 2021. Figure 1b: Junction of two firelines in Soda Mountain Wilderness, Klamathon Fire, Oregon, 2018. Figure 1c: Off-road vehicles driving along fire line in Buck Lake Wilderness, Dixie Fire, California, 2021. Figure 1d: Fireline through headwater stream in the Siskiyou Wilderness, Natchez Fire, California, 2018. (Photo credits: Figure 1c, Darrel Jury, Friends of Plumas Wilderness; all other photos, Luke Rudiger, Klamath Forest Alliance)

The Forest Service should comply with the Wilderness Act by ceasing authorizations to build fire lines in Wilderness and thus discontinue logging in these protected areas. This does not require a rulemaking or a new NEPA analysis.

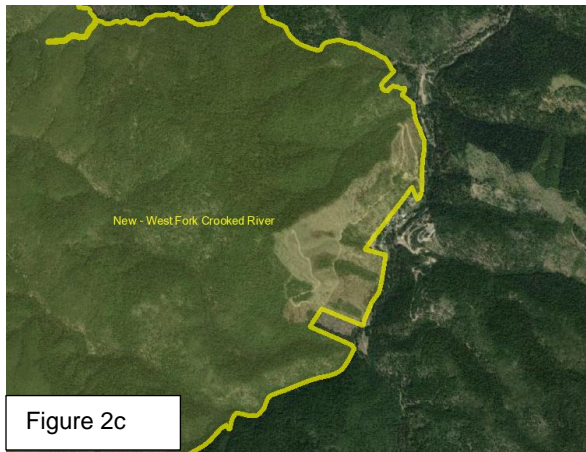
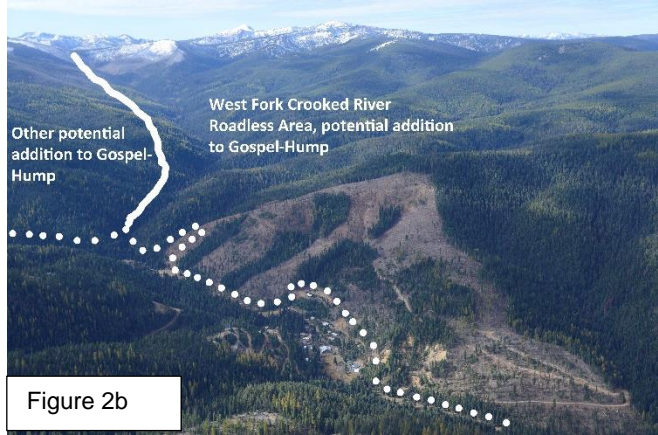
## **B. PROTECT VULNERABLE ACREAGE THAT COULD CONTRIBUTE TO CONSERVING 30 PERCENT OF THE US LAND BASE BY 2030**

The Forest Service should manage national forests for climate resilience by protecting inventoried roadless areas (IRAs). Protecting IRAs would allow the Forest Service to count this acreage towards the 30x30 initiative. In the Forest Service's recent management history, the agency has increasingly exploited the roadless rules' logging permissions to authorize logging in IRAs. As discussed below, environmental organizations have documented approved logging or logging proposals in IRAs in Idaho, Montana, California, and New Mexico, and this list is not exhaustive. In addition to ending this trend, the Forest Service should also protect vulnerable acreage that could contribute to the 30x30 initiative by designating areas of forest in the Eastern United States that were excluded from the national roadless inventory.

**IDAHO:** The Forest Service has authorized extensive roadless logging in National Forests within the State of Idaho. The 2008 Idaho Roadless Rule loosened logging prohibitions for a majority of



inventoried roadless areas in Idaho. From the inception of Idaho’s state-specific rule in 2008 until October of 2022, the agency has approved over 177,000 acres of logging in the National Forest System roadless inventory in Idaho, far exceeding the 15,000 acres the agency predicted it would log in roadless over the first fifteen years.<sup>7</sup> Figures 2a through 2h present a time series of pictures, courtesy of Friends of the Clearwater, showing Forest Service-authorized logging on the West Fork Crooked River IRA in the Nez Perce National Forest. The prescribed burn killed most of the remaining trees. Weeds overtook the IRA after logging and a prescribed fire. Two years after the prescribed fire, a real wildfire burned in the area, more severely impacting the logged roadless area than the surrounding forest.



<sup>7</sup> This accounting is from the agency’s own records. This excel spreadsheet is titled “Copy of 2022\_10\_IRR\_PROJECTS\_MASTER” in the “Roadless Rule materials” folder of the supporting documentation. Compare with USDA, Forest Service, Roadless Area Conservation National Forest System Lands in Idaho final EIS, Vol. 1 p. 76 (Aug. 2008).



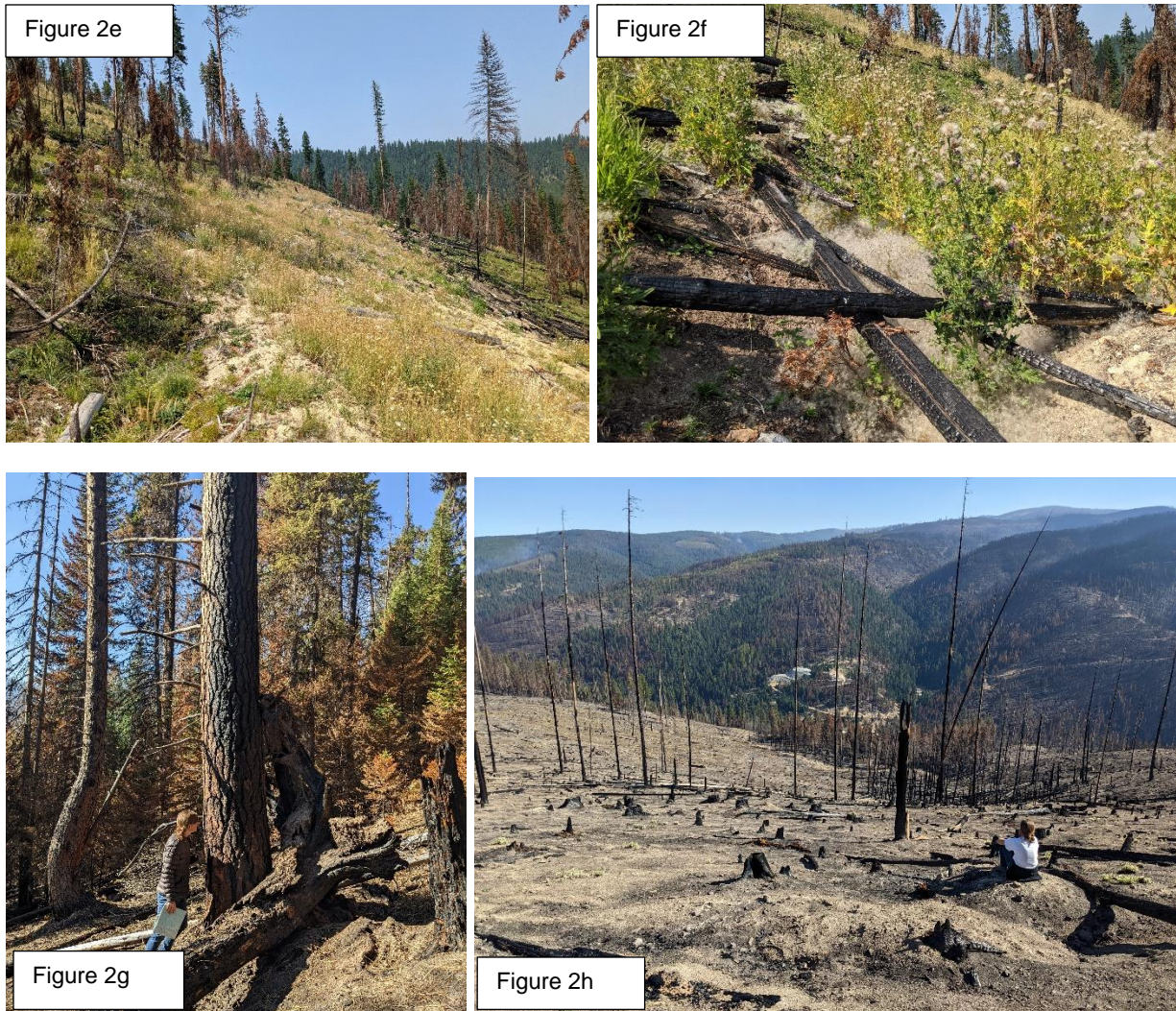


Figure 2a: Temporary road with six-foot cut into hillside in IRA pre-logging June 2017. Figure 2b: Post logging, October 2018. Figure 2c: Satellite imagery post-logging, year unknown; Figure 2d: IRA after prescribed burn that killed most of remaining trees, August 2019. Figure 2e and 2f: West Fork Crooked River IRA 2021. Figure 2g: Post-wildfire picture of area near the IRA that was not logged, October 2022. Figure 2h: Post-wildfire picture of logged IRA, October 2022. (Photo credits: Figure 2b, Alpha 1 Photography; all other photos from Friends of the Clearwater)

MONTANA: From 2010 until 2018, according to Forest Service records, the agency approved over 33,000 acres of logging in the National Forest System roadless inventory in Montana.<sup>8</sup> This logging has exceeded what the Forest Service had stated it would authorize for logging under the 2001 Roadless Area Conservation Rule’s environmental impact statement. Friends of the Clearwater analyzed and published a report, updated in 2020, that examined how the Forest

<sup>8</sup> Friends of the Clearwater has been unable to attain any agency accounting after 2018 for IRAs in Montana National Forests.

Service broadly applied exceptions in the 2001 Roadless Area Conservation Rule (RACR) to authorize logging in roadless areas.<sup>9</sup>

CALIFORNIA: The Forest Service has interpreted the 2001 RACR interpretation to justify logging in inventoried roadless areas in California, as well. In the Los Padres National Forest, the Forest Service proposed logging 1,100 acres of commercially viable trees in the Antimony Inventoried Roadless Area. The Forest Service applied the 2001 RACR exception that Friends of the Clearwater found to be commonly used for roadless logging in Montana.<sup>10</sup> The exception the Forest Service used to justify the project is the following:

- (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 § 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[.]<sup>11</sup>

The Forest Service’s decision relied on the unfounded assumption that logging this area could stop a high-severity fire. The Forest Service also asserted that trees up to 21 inches diameter at breast height (dbh) were “small-diameter trees.”<sup>12</sup> Scientists and ecologists understand that trees in the Los Padres National Forest could be very old and still measure less than 21 inches dbh, depending on specific tree species and dry forests. Los Padres Forestwatch brought a lawsuit against the Forest Service for its decision to log in roadless areas, and appealed the district court’s decision to the Ninth Circuit. While Los Padres Forestwatch won on appeal, it did not win on the basis that the USFS had employed scientifically inaccurate premises. The Ninth Circuit found that the Forest Service did not have evidence in the record to justify that trees up to 21 inches dbh were “small diameter,” especially when the Forest Service categorized trees over 10 inches dbh as large-diameter in a proximal project.<sup>13</sup> This is an example of how the 2001 RACR exception allows too much room for interpretations that allow for logging.

OREGON: According to information that Blue Mountains Biodiversity Project has collected, the Forest Service has approved logging in IRAs in Oregon’s national forests, including but not limited to the following projects: Cliff Knox, Ragged Ruby, Magone, and Elk 16 projects on the Malheur National Forest, and Mt. Emily Fuels Reduction project on the Wallowa-Whitman National Forest.

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<sup>9</sup> Bilodeau, K. and Macfarlane, G. 2020. [The Roadless Report: Analyzing the Impacts of Two Roadless Rules on Forested Wildlands](#). Friends of the Clearwater report. In “Roadless Rule materials” folder of the supporting documentation that PFPI mailed.

<sup>10</sup> See Bilodeau and Macfarlane 2020, p. 31.

<sup>11</sup> 2001 Roadless Area Conservation Rule, section 294.13(b)(1):

<sup>12</sup> An average person cannot put their arms completely around a tree that is 19 inches dbh.

<sup>13</sup> *Los Padres Forestwatch v. U.S. Forest Service*, 25 F.4<sup>th</sup> 649 (9<sup>th</sup> Cir. 2022).



NEW MEXICO: In the Santa Fe National Forest, US Forest Service began “fuel reduction efforts” as part of the Santa Fe Municipal Watershed Project, authorized in 2001. The result was weed-infested savannas replacing intact forests.



Figure 3a through 3c. Photos taken in an inventoried roadless area in the Santa Fe National Forest approximately fifteen years after the area was cut and burned. (Photo credit: Wild Watershed)

In addition to reversing where the agency increasingly uses exceptions in the roadless rules to allow logging in inventoried roadless areas, the Forest Service should protect mature forests by adding acreage to the roadless inventory. This would require a new NEPA analysis and new rulemaking. The most recent roadless area review evaluation that the Forest Service has conducted was in the 1970s. This review excluded eligible areas nationwide. For example, in Mississippi, the Delta National Forest, which has 32 percent old growth,<sup>14</sup> contains two parcels of old forests over 7,000 acres.<sup>15</sup> The Forest Service recognized these areas, yet excluded these old forests from the roadless inventory.<sup>16</sup>

In summary, the Forest Service must better protect inventoried roadless areas from logging so that roadless areas can better contribute to the 30x30 goal and mitigate both the climate and biodiversity crises. The Forest Service can take action immediately, without new rulemaking or a NEPA analysis, simply by ceasing to propose or authorize logging in roadless areas. To effect more lasting protection under this Administration, however, the Forest Service should undertake a new rulemaking to bring the nation's inventoried roadless areas in every state under unified governance and eliminate the logging exceptions that have led to the above results. A new rulemaking to update federal roadless protections would allow the Forest Service to avail itself of the last 22 years of forest and climate science. The Forest Service must eliminate the unscientifically broad exceptions that lead to logging mature forests in IRAs and add areas that were excluded from the last inventory.

### **C. MAINTAIN OR INCREASE OLD-GROWTH PROTECTIONS IN REVISED FOREST PLANS WITH MEANINGFUL AND QUANTIFIABLE STANDARDS**

The Forest Service should comply with the National Forest Management Act (NFMA) for current forest plans and use the ongoing NEPA processes to strengthen protections for mature and old-growth forests in forest plan revisions or forest plan amendments. NFMA and its implementing regulations intend that forest plans provide for a diversity of plant and animal communities through ecosystem integrity and ecosystem diversity. Forest plans with measurable and enforceable standards that protect mature and maturing forests will achieve this mandate. In the first-generation forest plans of the 1980s and early 1990s, the Forest Service created old-growth protection standards in some national forests. However, in the next generation of forest planning, including current revision proposals that are not yet final, the Forest Service has proposed to eliminate measurable and enforceable standards and replace them with ambiguous, unquantifiable, and legally unenforceable provisions. Below are two examples; relevant materials are in the "Forest Plans" folder. These are not the only examples.

In the Nez Perce National Forest and the Clearwater National Forest in Idaho, both first-generation forest plans (completed in 1987) required maintaining old growth at a minimum of five percent in each approximate 10,000-acre watershed and ten percent forest-wide. The Forest Service listed features in its forest plan appendices that defined what the agency would consider old growth. Both forest plans also required the agency to inventory the old growth in both

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<sup>14</sup> USDA Forest Service 2014. Mississippi's National Forests Land Management Plan. In "Forest Plans" folder.

<sup>15</sup> USDA Forest Service 2014. Final Environmental Impact Statement for Mississippi's National Forests Land and Resource Management Plan p. 123, *see also* Appendix C, section C.5.2 at p. C-C-14 through C-C-24.

<sup>16</sup> USDA Forest Service, Inventoried Roadless Areas by state, available at <https://www.fs.usda.gov/detail/roadless/2001roadlessrule/maps/statemaps/?cid=stelprdb5400185>.

forests. Friends of the Clearwater asked for this old-growth inventory in 2020 through a Freedom of Information Act request. The incomplete information received suggested that, over 30 years later, there is still no comprehensive inventory of the Nez Perce or Clearwater National Forests. Without a complete inventory, the Forest Service cannot show that it has protected ten percent old growth forest-wide for the 36 years these plans have been in place. Instead, the Forest Service approximates old growth acreage based on Forest Inventory Analysis data, which cannot distinguish one acre of old growth from a 300-acre swath of it.<sup>17</sup> The size of old-growth patches is important for the ability to provide meaningful habitat for old-growth-dependent species, which the Nez Perce and Clearwater forest plans each outline.<sup>18</sup>

In the Nez Perce-Clearwater National Forests forest plan revision process, the Forest Service has effectively proposed eliminating any meaningful standard to protect old-growth. In the proposed revision, there are no more forest-wide or watershed-level percentages to conserve and no list of characteristics by which an agency or the public might identify old growth. Instead, the Forest Service has reserved authority to choose tree species to maintain for old growth. Thus, trees over 80 years old in an area that happen to fall outside of the Forest Service's classification may be logged if the proposed revision takes effect. This forest-plan revision is not yet final, and the Forest Service could easily take steps within the ongoing NEPA process to stop this amendment. The agency should instead keep and even strengthen, the existing old-growth standards, investing effort in how to achieve them.

The 1987 Santa Fe Forest Plan also contained old-growth protections. The Forest Service, compelled by litigation over the spotted owl and northern goshawk, required 20 percent of each management unit to be set aside for old-growth.<sup>19</sup> The Forest Service failed to do so, but even so the judge sided with the Forest Service because of agency discretion. In the revised forest plan, the US Forest Service eliminated the 20 percent standard in favor of stating desired conditions.<sup>20</sup> Desired conditions are not specific, measurable, or legally enforceable in forest plans. To rectify this situation, the Forest Service should amend the forest plan to reinstate the original standards or create stronger standards with a plan for compliance.

The Forest Service should immediately desist from weakening old-growth protections in its unit forest plans, and identify and reverse plan revisions adopted since 2012, like those described above, that weakened old-growth protections. By using NEPA reviews underway or by amending forest-plans, the US Forest Service can immediately begin strengthening old-growth protections, forest by forest. As an alternative to a federal rule on mature and old-growth forests, the Forest Service should amend the planning regulations and each forest plan revision to adopt measurable, enforceable old-growth standards.

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<sup>17</sup> Juel (2021) p. 19.

<sup>18</sup> [USDA Forest Service. 1987. Clearwater Forest Plan, Appendix H; USDA Forest Service. 1987. Nez Perce Forest Plan, Appendix N.](#)

<sup>19</sup> USDA Forest Service 1987. Santa Fe Forest Plan, pdf p. 50, 58.

<sup>20</sup> USDA Forest Service 2021. Santa Fe National Forest Land Management Plan, pp. 34, 41, 45, 49, 52, 53.



#### **D. HALT LOGGING IN OLD-GROWTH AND MATURE FORESTS AND ISSUE A MORATORIUM ON LOGGING THEM.**

The Forest Service has historically approved and continues to approve logging in mature and old-growth forests.<sup>21</sup> A sustainable strategy to mitigate for climate and biodiversity resilience must prioritize allowing mature forests to grow without logging them. This approach requires adopting transparent language about project goals and abandoning language that obscures management impacts. In recent history, federal land-management agencies have transitioned from titling a project a “logging project” or a “timber sale” to titling them “restoration projects,” “management projects,” “wildfire resilience projects,” or “community protection projects.”<sup>22</sup> For example, the Hungry Ridge Restoration Project on the Nez Perce National Forest, Idaho, sounds like it might benefit the forest, but the so-called “restoration project” allows detrimental logging on 7,144 acres of forest, including acres that the Forest Service has mapped as old growth.

The Forest Service can take immediate action, without new rulemaking or new NEPA analysis, and exclude every logging unit recently approved logging projects or projects under consideration that would cut trees in mature and old-growth forests.

For sustained protection, however, protecting mature and old-growth forests means an enforceable regulation that prohibits logging them. For this reason, the Forest Service should promulgate a rule that strictly prohibits logging in mature and old growth forests—which constitute only a fraction of national forests - nationwide. This rule would be consistent with the Multiple Use Sustained Yield Act<sup>23</sup> because protecting mature and old growth forests would allow these areas to be managed for watersheds, wildlife, fish, and outdoor recreation.

Clear language and definitions are also needed for operationally characterizing the forests to be protected. In defining “mature” forests, the USFS should use a forest stand’s peak net primary productivity to define “mature.” Net primary productivity is the carbon a plant produces through photosynthesis after subtracting the energy used for respiration.<sup>24</sup> Peak net productivity is when net primary productivity becomes constant or starts to decline gradually. Birdsey et al. (2023) found this to be between 35 and 75 years, depending upon the forest.<sup>25</sup> The rule should take the average between the high range and the low range, and start protecting forest stands at 55 years unless the agency can demonstrate with the best available science and verified modeling that a particular forest region obtains peak primary productivity between 55 and 75 years. One hundred percent protection for mature forests would avoid substantial carbon dioxide emissions,

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<sup>21</sup> See America’s Vanishing Climate Forests: <https://www.climate-forests.org/worth-more-standing>. The Worth More Standing Report and the America’s Vanishing Climate Report are included with the supporting materials mailed. They are in the “Worth More Standing” folder. See also Appendix A of this comment, which includes—but is not limited to—other current and recent examples.

<sup>22</sup> See, e.g., Pacific Northwest Forest Climate Alliance Field Survey Working Group collection of project photos from public land, <https://www.forestclimatealliance.org/logging-photo-gallery>.

<sup>23</sup> 16 U.S.C. §§528-531

<sup>24</sup> Birdsey RA, DellaSala DA, Walker WS, Gorelik SR, Rose G and Ramírez CE. 2023. Assessing carbon stocks and accumulation potential of mature forests and larger trees in U.S. federal lands. *Front. For. Glob. Change* 5:1074508.doi: 10.3389/ffgc.2022.1074508.

<sup>25</sup> *Id.*

protect vulnerable areas like inventoried roadless areas,<sup>26</sup> and contribute towards the Administration's 30x30 commitment.<sup>27</sup>

## **E. REINSTATE THE PACIFIC NORTHWEST EASTSIDE SCREENS**

Before the Trump Administration, a federal regulation in the Pacific Northwest known as the Eastside Screens rule prohibited logging trees over 20 inches dbh in most situations. The Forest Service promulgated the Eastside Screens rule in the mid-1990s to respond to over a century of overlogging and mismanagement that created an extreme deficit of large trees. The rule intended to protect remaining habitat for old-growth-dependent wildlife. During the last days of the Trump Administration, the Forest Service ended meaningful protections for trees over 21 inches dbh across approximately nine million acres by eliminating the rule and substituting a less enforceable suggested guideline. This decision impacted six National Forests in eastern Oregon and southeastern Washington. Mature Grand Fir less than 30 inches dbh and less than 150 years of age also lost all protections.

The day after the Forest Service published its decision notice weakening the Eastside Screens—January 13, 2021—thirty-three groups concerned about this rollback submitted a letter to President Biden's USDA transition team.<sup>28</sup>

Three years later, the US Forest Service still has not reinstated the Eastside Screens rule to protect these mature and large trees. Instead, the Forest Service under the Biden Administration has chosen to *defend* logging projects that exploit the absence of the original Eastside Screens rule. In the South Warner Project on the Fremont-Winema National Forest in Oregon, for example, the Forest Service used a categorical exclusion to authorize logging white fir over 30 inches dbh among other trees. While this logging would not have been permitted under the original Eastside Screens rule, it is permissible under the replacement guidelines. The Blue Mountains Biodiversity Project sued the Forest Service to protect these large trees. When faced with the complaint initiating the lawsuit, instead of withdrawing this decision, the Forest Service chose to defend logging trees over 30 inches dbh and moved to dismiss the case. The judge denied the Forest Service's motion, and this case is still active.<sup>29</sup>

The Forest Service must stop defending in court those timber sales that were approved after the Eastside Screens rule was repealed, and initiate a new rulemaking process to reinstate the Eastside Screens rule, or a broader rule that provides equal or greater protections.

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<sup>26</sup> See Section III.B.

<sup>27</sup> DellaSala DA, Mackey B, Norman P, Campbell C, Comer PJ, Kormos CF, Keith H and Rogers B (2022) Mature and old-growth forests contribute to large-scale conservation targets in the conterminous United States. *Front. For. Glob. Change* 5:979528. doi: 10.3389/ffgc.2022.979528; DellaSala DA, Ripple WJ, Birdsey RA, Ramírez CE, Noon BR, et al. 2023. A Carpe Diem Moment on Forests and Climate Policy. *J Forest and Geoscience* 1:1.

<sup>28</sup> This letter is included in the supplemental materials, in folder "South Warner Project (OR)."

<sup>29</sup> See *Blue Mountains Biodiversity Project v. Wilkes*, Federal District of Oregon, Case No. 1:22-cv-01500-CL. Included in mailed materials is the magistrate judge's findings and recommendation to deny the defendants' motion to dismiss and the decision memo for this ongoing case.

## **F. END SUPPORT FOR, PARTICIPATION IN, AND SUBSIDIZATION OF THE BIOMASS INDUSTRY**

Forest Service support for bioenergy projects both within the agency itself and in the private sector is becoming particularly problematic. This past April, the USDA held an Agribusiness Trade Mission in the Netherlands and welcomed the United States Industrial Pellet Association.<sup>30</sup> In the USDA Action Plan for Climate Adaptation and Resilience (August 2021), despite already having received public comments and evidence discussing problems with bioenergy and how forest thinning is unlikely to mitigate fire risk and can instead increase emissions, the USDA indicated that the “[Forest Service] will work together to identify opportunities to link post wildfire restoration efforts with bioenergy generation.”<sup>31</sup> Such a project is in its nascent stages on the West Coast. In Region 5, the USDA and Forest Service is providing funding and raw material support to a wood pellet manufacturing project that would be by far the largest in California, comparable in scale to the massive commercial wood pellet plants in the US Southeast. Golden State Natural Resources (GNSR) proposes to build two wood pellet mills that would produce 1,000,000 metric tons of wood pellets annually, and ship them to Asian and European markets to burn in biomass power plants.<sup>32</sup> GNSR has received a \$500,000 grant from the US Forest Service under the Wood Products Infrastructure Assistance program to apply to its wood pellet operations with no restrictions on how to use the funds. Additionally, GNSR plans to source the majority of raw materials for these wood pellet facilities from trees in the National Forest System based on a master stewardship agreement that GSFA signed with the Chief of the US Forest Service in 2019. This agreement allows GSFA to propose and execute timber projects on all eighteen Region 5 national forests for twenty years with no acreage or volume limits. Timber projects include thinning as well as “incidental” volumes of “merchantable saw logs.”<sup>33</sup>

The USFS should immediately end its practice of awarding grants to industries that will worsen the climate problem. The Forest Service has ample information about the harmful climate impacts of biomass energy, particularly when sourced from forests, based on the science and information the public has repeatedly provided the agency.

The USFS should also withdraw its proposal to allow carbon capture and storage as a special use on the National Forest System. According to the Office of Information and Regulatory Affairs website, the Forest Service is currently proposing a regulatory amendment<sup>34</sup> to allow for use and occupancy for activities related to Carbon Capture, Utilization, and Storage. The Forest Service already manages the most effective carbon capture and storage system – our forests – and must stop wastefully squandering this natural resource on projects such as wood pellet manufacturing.

## **IV. CONCLUSION**

Science suggests a new management paradigm for national forests to mitigate the climate and biodiversity crises. The USFS can best manage for climate by preserving old-growth,

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<sup>30</sup> <https://www.dogwoodalliance.org/2023/04/usda-forest-destruction-netherlands/>.

<sup>31</sup> [USDA Action Plan for Climate Adaptation and Resilience](#), August 2021, p. 13.

<sup>32</sup> See GSFA and GNSR Joint Special Meeting Packet Oct. 20, 2022, p.3; and GNSR President Norton March 25, 2022 Project update. Materials supporting this example may be found in the “GNSR” folder provided.

<sup>33</sup> USDA and GSFA Master Stewardship Agreement, p. 2

<sup>34</sup> <https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202304&RIN=0596-AD55>



recruiting mature and old growth forests, and promoting intact ecosystems. As we discuss in Appendix B, this strategy sequesters carbon from the atmosphere and stores carbon now; maintains currently stored carbon in the vegetation or the ground; promotes the ecological disturbances that create more old growth and more resilient forests; and promotes biodiversity.<sup>35</sup>

We urge the Forest Service to address the global climate and biodiversity crises with a nationwide moratorium on logging in mature and old growth forests. The Forest Service has many different actions available. Some actions do not require new rulemaking or can utilize ongoing NEPA analyses, such as the following:

- 1) Comply with the 1964 Wilderness Act;
- 2) Withdraw and refrain from proposals to log in inventoried roadless areas;
- 3) Withdraw and refrain from proposals to log in existing mature or old-growth forests;
- 4) Withdraw proposed rollbacks of mature-forest and old-growth protections in ongoing individual forest plan revisions;
- 5) Withdraw from or terminate proposals or agreements to source raw materials for biomass energy from national forests;
- 6) Withdraw the proposal to allow public lands to be used for carbon-capture-and-storage technology;
- 7) Stop funding climate-harming technologies, such as wood pellet manufacture.

For more lasting protections, the Forest Service must engage in new rulemaking, such as the following:

- 1) Bring all inventoried roadless areas under one national governance and amend the 2001 Roadless Area Conservation Rule to meaningfully protect the nation's roadless inventory.
- 2) Designate new inventoried roadless areas in the Eastern U.S.
- 3) Reinstate the Eastside Screens rule in Oregon and Washington;
- 4) Promulgate a new nationwide rule that prohibits logging mature and old-growth forest stands at 55 years and that prioritizes growing intact forests.

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<sup>35</sup> See Law, B.E., Moomaw, W.R., Hudiburg, T.W., Schlesinger, W.H., Serman, J.D., Woodwell, G.M. 2022. Creating Strategic Reserves to Protect Forest Carbon and Reduce Biodiversity Losses in the United States. *Land* 2022, 11, 721. <https://doi.org/10.3390/land11050721>; Buotte, P.C., Law, B.E., Ripple, W.J., and Berner, L.T. 2020. Carbon sequestration and biodiversity co-benefits of preserving forests in the western United States. *Ecological Applications*, 30(2), e02039, pp. 1-11. While the mapping in this study ranks forest, *all* of the areas ranked are important. For example, the Greater Yellowstone Ecosystem (NW Wyoming/SW Montana) this study might be a “low” priority rank for forest carbon, but nonetheless is very important habitat for a grizzly bear subspecies that must persist to prevent extinction this ESA-threatened species. See <https://www.fws.gov/species/grizzly-bear-ursus-arctos-horribilis/map>; Moomaw WR, Masino SA and Faison EK (2019) Intact Forests in the United States: Proforestation Mitigates Climate Change and Serves the Greatest Good. *Front. For. Glob. Change* 2:27.doi: 10.3389/ffgc.2019.00027.

Thank you for your consideration.

Sincerely,

Laura Haight  
U.S. Policy Director  
Partnership for Policy Integrity  
lhaight@pfi.net

Katie Bilodeau  
Staff Attorney  
Partnership for Policy Integrity