

LINCOLN COUNTY

STATE OF MONTANA

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DISTRICT NO. 3, EUREKA

CORRINA L. BROWN
CLERK OF THE BOARD AND COUNTY RECORDER

February 2, 2024

Director, Ecosystem Management Coordination
United States Forest Service
201 14th St., S.W., Mailstop 1108
Washington, DC 20250-1124

Re: Land Management Plan Direction for Old-Growth Forest Conditions Across the
National Forest System, 88 Fed. Reg. 88,042 (Dec. 20, 2023)

Dear Director:

These comments are submitted on behalf of the Board of Commissioners of Lincoln County, Montana. As the Forest Service is well aware, significant portions of Lincoln County are within the Wildland-Urban Interface as defined by the County's Community Wildfire Protection Plan. These areas are urgently in need of treatments to reduce the risk of catastrophic wildfire, yet progress on the Kootenai National Forest has ground to a halt. We are concerned that the proposed old-growth amendment will impede needed management and that it is inconsistent with governing legal authorities.

We are concerned that the development of a new "Adaptive Strategy for Old-Growth Conservation" will consume essential resources and manpower at the Forest Service that is needed to get work done on the ground. This is salient because the Forest Service admits that its proposal is not intended to replace existing direction. 88 Fed. Reg. at 88,045. The Kootenai Forest Plan ("KFP") has extensive direction that relates to conservation and management of old-growth structure within the Forest.

Specifically, the KFP includes:

FW-DC-VEG-03. The amount of old growth increases at the forestwide scale. At the finer scale of the biophysical setting, old growth amounts increase for the Warm/Dry and Warm/Moist settings while staying close to the current level for the Subalpine setting. Relative to other tree species, there is a greater increase in old growth stands that contain substantial amounts (i.e., 30% or more of the total species composition) of one or more of the following tree species: ponderosa pine, western larch, western white pine, and whitebark pine. Old growth stands are more resistant and resilient to disturbances and stressors such as wildfires, droughts, insects and disease, and potential climate change effects. The size of old growth stands (or patches of multiple contiguous

old growth stands) increase and they are well- distributed across the five Geographic Areas on the Forest.

FW-STD-VEG-01. Within old growth stands, timber harvest or other vegetation management activities shall not be authorized if the activities would likely modify the characteristics of the stand to the extent that the stand would no longer meet the definition of old growth (see glossary for old growth definition).

FW-GDL-VEG-01. Timber harvest or other vegetation management activities may be authorized in old growth stands if the activities are designed to increase the resistance and resiliency of the stand to disturbances or stressors, and if the activities are not likely to modify stand characteristics to the extent that the stand would no longer meet the definition of old growth (see the glossary for the definitions of resistance and resilience).

FW-GDL-VEG-02. Road construction (permanent or temporary) or other developments should generally be avoided in old growth stands unless access is needed to implement vegetation management activities for the purpose of increasing the resistance and resilience of the stands to disturbances.

FW-DC-WL-11. Old growth, or other stands having many of the characteristics of old growth, exists for terrestrial species associated with these habitats (refers to FW-DC-VEG-03, FW-STD-VEG-01, FW-STD-VEG-02, FW-GDL-VEG-01, and FW-GDL-VEG-02).

GA-DC-VEG-YAK-01. Management of vegetation toward the desired vegetation condition provides habitat for moonworts and northern beechfern and increases in late succession and/or old growth vegetation.

No reasonable observer would find that the KFP provisions fall short of the proposed standards in the nationwide amendment. *See* 88 Fed. Reg. at 88,047–48. Thus, it seems that the efforts to develop an “Adaptive Strategy” would be a meaningless paperwork exercise, diverting key planning resources away from vital work on the ground. This is contrary to the Forest Service’s mission and purpose. It is also a grave threat to the health of Lincoln County’s forests and people. In legal terms, there is no need to change that is a required element of a Forest Plan amendment. *See* 88 Fed. Reg. at 88,045.

In addition, we believe that the proposal is inconsistent with governing authorities. The Forest Service, for good reason, has never attempted a nationwide Forest Plan amendment. The National Forest Management Act (“NFMA”) provides that Forest Plans are to be developed for “units of the National Forest System,” not for the System all at once. 16 U.S.C. § 1604(a). Each Forest Plan amendment requires public engagement “in the vicinity of the affected unit.” 16 U.S.C. § 1604(d)(1). But the Forest Service is not planning any such engagement. Each plan must be “one integrated plan *for each unit of the National Forest System*” rather than a nationwide plan. 16 U.S.C. § 1604(f)(1) (emphasis added). A nationwide amendment is simply incompatible with NFMA.

The Forest Service attempts to get around these requirements by describing the nationwide amendment as suitable for an administrative change. 88 Fed. Reg. at 88,045 (citing 36 C.F.R. §

219.7(f)(2)). This effort is unavailing. Administrative changes “include corrections of clerical errors to any part of the plan, conformance of the plan to new statutory or regulatory requirements, or changes to other content in the plan.” 36 C.F.R. § 219.13(c). The Forest Service has characterized the new direction as “other content” but has not acknowledged that “other content” in a forest plan cannot include any desired conditions, standards or guidelines--- which this proposal *does* include. 88 Fed. Reg. at 88,047–48. *See* 36 C.F.R. § 219.7(e) (identifying desired conditions, standards, and guidelines as plan components distinct from “other content”).

In sum, we are very concerned about the legality and advisability of this effort. The Forest Service should consider other options to pursue its policy goals, including an amendment to the Planning Rule itself.

Sincerely,



Brent Teske, Commissioner
District No. 1, Libby



Jim Hammons, Commissioner
District No. 2, Troy



Josh Letcher, Commissioner
District No. 3, Eureka