



February 2, 2024

Secretary Tom Vilsack
United States Secretary of Agriculture
United States Department of Agriculture
1400 Independence Avenue, NW
Washington, DC 20250

Linda Walker, Director,
Ecosystem Management Coordination
201 14th Street SW,
Mailstop 1108
Washington, DC 20250-1124

RE: Notice of Intent to Prepare an Environmental Impact Statement United States Department of Agriculture, Forest Service Land Management Plan Direction for Old-Growth Forest Conditions across the National Forest System USDA-FS-2023-27875

Dear Secretary Vilsack,

On behalf of the State of Wyoming I submit following comments on the above captioned Federal Register notice. Additionally, Wyoming State Forestry Division, Wyoming Department of Environmental Quality, and Wyoming Department of Agriculture are submitting comments that are specific to their resource areas and missions. I ask that you thoroughly review all of Wyoming's comments.

Wyoming has a long history of involvement with the United States Forest Service (Forest Service), as home to the first National Forest in the nation. The Shoshone National Forest and our other seven National Forests and National Grasslands are an integral part of Wyoming's landscape, economy, and culture, making up 9.2 million acres in Wyoming. The significance of the forests in Wyoming have required the state to maintain a close relationship with the Forest Service at every level. We have been willing partners and collaborators on countless plans, projects, and policies. The Notice of Intent (NOI) to Prepare an Environmental Impact Statement (EIS) United States Department of Agriculture, Forest Service Land Management Plan Direction for Old-Growth Forest Conditions across the National Forest is a misguided, top-down proposal that should go no further.

We ask that the Forest Service reconsider moving forward with the current proposal to amend 128 Management Plans using a single EIS developed on an unrealistic timeline. The manner and haste in which the Forest Service intends to carry out this proposal is questionable at best and will undermine public trust and confidence in the science land management is based on, agency policies going forward, and most importantly, the relationships that have been developed.

The Proposed Amendment is Not Necessary: The Forest Service has identified over 24 million acres of old-growth in the National Forest system, and initial threat analysis found “that mortality from wildfires is currently the leading threat to mature and old-growth forest conditions, followed by insects and disease.” Despite the losses in old growth from these threats, trends indicate that inventories of old-growth have increased in the forests over at least the last twenty years. The Forest Service in the NOI discloses that there are “2,700 land management plan components, across nearly all 128 individual plans, which provide direction on the management, conservation, or monitoring of old-growth forest conditions across the National Forest System.” The existing plan components were developed properly at the forest level to address the individual needs of each forest. Each forest has different conditions and ecosystems, which is made abundantly clear based on the initial inventory identifying over 200 definitions of old-growth. There is no indication that the effectiveness of these existing components were or will be fully considered. The NOI says the “need for change is to create a consistent set of national plan components and direction...” Under the 2012 Planning Rule, amendments shall be based on a need for change resulting from “a new assessment; a monitoring report; or other documentation of new information, changed conditions, or changed circumstances.” (36 CFR 219.13(b)(1)) The 2012 Planning Rule does not include consistency as a basis for an amendment. A lack of consistency in old-growth direction across 128 forest units is not an allowable or adequate reason to unilaterally amend all the forest plans.

In addition, there is not a need to restrict more areas by prioritizing one stage of succession over another and it is dangerous to limit management tools on additional acres. Over 61.1 million acres across National Forest units are under restricted designations already (Congressionally designated Wilderness Areas and Inventoried Roadless Areas). In Wyoming, there are approximately 6.2 million acres under these designations, which accounts for 67 percent of our National Forests. This percentage in Wyoming and the total nationwide indicates there are substantial areas where old-growth is left undisturbed. Assuming that simply leaving old-growth alone will create more natural old-growth is unneeded at best, and at worst, a dangerous limitation of restoration and management activities needed to address fire, insect, and disease

threats, which will decrease the amount of carbon sequestered by forests; the very goal of the proposal overall and could result in additional carbon being released.

Public Participation and Local Knowledge: The proposed process fails to meet public participation requirements, which in the case of the 2012 Planning Rule (36 CFR 219), that you, Secretary Vilsack, approved yourself. The 2012 Planning Rule says that one of its purposes is to “[p]rovide for a transparent, collaborative process that allows effective public participation.” And the preamble for the 2012 Planning Rule also says it will “provid[e] meaningful opportunities for public participation early and throughout the planning process, increases the transparency of decision-making, and provides a platform for the Agency to work with the public...” The 2012 Planning Rule was also intended to create a process which is “science-based and additionally recognizes the value of local knowledge” and in response to comments on the 2012 Planning Rule the Forest Service noted that, while considered, specific regulations for old-growth stands and other ecosystem communities, “were not included in the final rules, because these issues are best identified and determined at a forest or grassland level...”

This proposal seems to indicate the Forest Service has abandoned its policy and the commitments made in the 2012 Planning Rule when it comes to public input, transparency, local knowledge, and the importance of decisions being made by those that are closest to the forest. This is made clear by the proposal’s exclusion of counties as cooperating agencies and the decision to amend 128 management plans at the same time with the responsible official being as far away from the forests as you can get. We can only assume the counties were excluded in an effort to meet the expedited timeline. This is not acceptable to Wyoming as our counties are closest to the forests and have the local expertise that is invaluable to forest planning efforts across our state. In addition to disregarding the 2012 Planning Rule the proposal also overlooks the professed policy of this Administration, when it comes to local involvement, outlined in Executive Order 14072 as “support[ing] collaborative, locally led conservation solutions.”

Violates NEPA: The National Environmental Policy Act (NEPA) serves the purposes of informing an agency’s decision makers of the environmental impacts of a proposed federal action and providing this information to the public so that they can meaningfully engage in the process. Under NEPA, an EIS must include a discussion of alternatives and an objective evaluation of those alternatives in relation to the agency’s stated purpose and need. This proposal’s approach is to first prepare an EIS for the forest plans amendment to add Desired Conditions, Standards, Guidelines, a Goal, and the Statement of Distinctive Roles and Contribution, without knowing the amount and location of acres affected, the effects on timber outputs, impacts of the amendment on existing plans, or the effects on multiple-use. If the Forest

Service does not know this information, then the public cannot know this information and NEPA is not meeting its purpose of informing the public and the Forest Service decision makers will be making changes to 128 forest plans without knowing the impacts. In addition to NEPA being completed without all the relevant information, the expedited timeline proposed is ludicrous. The varied nature of old-growth as evidenced by the over 200 definitions of old-growth, along with the 2,700 existing plan components that address old-growth, it is impossible even if the Forest Service did have all the information they needed to complete a NEPA EIS on the proposed timeline. The sheer size of this undertaking points to this proposal trying to accomplish something that should be done at a forest level for each individual plan.

Poor Use of Time and Resources: The Forest Service in Wyoming and across the nation struggles to revise, implement, and monitor existing forest plans. This proposal will usurp Forest Service time and resources to accomplish what could and should be done at a forest level in the normal course of forest planning. The 2012 Planning Rule says that plans should be within the capability of the forest unit both physically and fiscally. The Forest Service struggles with implementing and monitoring existing plans. If the workload in this proposal is added, implementation and monitoring on existing plans will be further ignored or forgotten and the efforts to revise forest plans will be diminished, both by a lack of Forest Service resources and a public that has lost the will to participate in a process that seems to have a predetermined conclusion. The Forest Service, the public, and old-growth would be better served if the limited staff time and resources were used to address the real threats of wildfire, disease, and insect infestation through active management, plan revisions, implementation, and consistent accurate monitoring.

Multiple-Use and Conservation/Healthy Forest are Not Incompatible: The Forest Service, like other land management agencies, has a long history and mandate to manage for multiple-use and sustained yield, but in what seems like a growing trend across other land management agencies, the Forest Service has decided that prioritizing one use over all others is the path forward. This is a fatal mistake based on the premise that conservation is incompatible with multiple-use. That could not be farther from the truth, multiple-use and conservation can work together as Wyoming has demonstrated over and over.

The Forest Service's Organic Act sets out that National Forests were set aside "to improve and protect the forest within its boundaries, or for the purpose of securing favorable water flows, and to furnish a continuous supply of timber for use and necessities of citizens of the United States[.]" Over time, Congress recognized that the forests had value beyond the limited purposes articulated in the Organic Act. In furtherance of that recognition, Congress enacted the Multiple-

Use and Sustained-Yield Act in 1960 which established a broad multiple-use mandate for the forests. In addition to their original purposes, the forests were now to be administered "for outdoor recreation, range, timber, watershed, and wildlife and fish purposes." The Forest Service should stay true to its multiple-use and sustained yield mandate, and not give any further credence to the concept that conservation and multiple-use are incompatible.

Thank you again for the opportunity to comment on this Notice of Intent. Wyoming asks that the Forest Service not move forward with this proposal. If the Forest Service sees value in protecting old-growth forests, those efforts should be done at a forest level, not in the manner proposed. If the Forest Service does move forward, I request the State of Wyoming and our counties be cooperating agencies, and consulted at every step in the process, including being on any interdisciplinary team or other mechanism used for the implementation of any agency action.

Sincerely,



Mark Gordon
Governor

MG:kb:kh