



**National Headquarters**  
1130 17th Street, N.W. | Washington, D.C. 20036-4604 | 202.682.9400  
[www.defenders.org](http://www.defenders.org)

September 20, 2024

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

Submitted via webform to:

<https://cara.fs2c.usda.gov/Public//CommentInput?Project=65356>

Re: Amendments to Land Management Plans to Address Old-Growth Forests Across  
the National Forest System Draft Environmental Impact Statement

Dear Ms. Walker:

On behalf of Defenders of Wildlife (“Defenders”) and our 2.2 million members and supporters across the country, please accept the following comments on the United States Forest Service’s draft environmental impact statement on the proposed Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System (89 Fed. Reg. 52040, June 21, 2024). Defenders is a national, nonprofit membership organization dedicated to the protection of all native animals and plants in their natural communities.

Please contact Vera Smith at [vsmith@defenders.org](mailto:vsmith@defenders.org) or 303.917.7222 with any questions about these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Lauren McCain".

Lauren McCain  
Senior Federal Lands Policy Analyst

# Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System Draft Environmental Impact Statement

Comments  
Defenders of Wildlife

## Introduction

Defenders of Wildlife appreciates the Forest Service’s continued efforts to develop the National Old Growth Amendment (NOGA) in response to President Biden’s Executive Order on *Strengthening the Nation’s Forests, Communities, and Local Economies* (EO 14072). EO 14072 mandated the Forest Service and the Bureau of Land Management, “conserve America’s mature and old-growth [MOG] forests on Federal lands.”<sup>1</sup> MOG forests contribute significantly to the country’s biodiversity, provide habitat for hundreds of imperiled plants and animals, and supply a range of other ecosystem services that benefit wildlife and people, including carbon sequestration and storage. The NOGA will result in a standardized set of new provisions for 128 national forests and grasslands across the National Forest System (NFS), focusing on old growth conservation and management.

The Forest Service states in the draft environmental impact statement (DEIS)<sup>2</sup> for the proposed NOGA that “[c]ompared to historic conditions, the extent of old-growth is clearly in deficit – suggesting ecological integrity is compromised.”<sup>3</sup> The agency acknowledges the deficit has resulted from “commercial timber harvest, silvicultural manipulation to favor tree species preferred for timber production, and wildfire suppression.”<sup>4</sup> A study by Barnett et al. (2023) found that old growth forest is “rare,” constituting 6.3% of forested lands across the US and described.<sup>5</sup> An analysis conducted by the Forest Service and the Bureau of Land Management found that the major threats to MOG forests include wildfire, insects, and disease with tree cutting now a minor threat.<sup>6</sup>

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<sup>1</sup> EO 14072, Sec. 1.

<sup>2</sup> 89 Fed. Reg. 52040, June 21, 2024.

<sup>3</sup> DEIS, p. 57.

<sup>4</sup> DEIS, p. 125.

<sup>5</sup> Barnett, K., Aplet, G.H. and Belote, R.T., 2023. [Classifying, inventorying, and mapping mature and old-growth forests in the United States](#). *Frontiers in Forests and Global Change*, 5, p.1070372.

<sup>6</sup> DEIS, p. S-4.

The Forest Service's intent for the NOGA is to:

- foster the long-term resilience of old-growth forests and their contributions to ecological integrity across the National Forest System,<sup>7</sup>
- add consistent direction to conserve and steward existing – and recruit future – old-growth forests and to monitor their condition across planning areas of the National Forest System,<sup>8</sup> and
- create a consistent framework for managing old-growth forests with sufficient distribution, abundance, and ecological integrity (composition, structure, function, connectivity) to be persistent over the long term, in the context of climate amplified stressors.<sup>9</sup>

Defenders supports these intentions because they are consistent with increasing the abundance and quality of at-risk old growth associate species habitat and increasing overall biodiversity.

The DEIS described the connection between biodiversity and old growth ecosystems, stating,

Biodiversity is a critical ecosystem service provided by old-growth forests, which are home to a vast array of plant and animal species, including many that are rare or absent in younger forests. These forests support high levels of biodiversity due to their complex structure, with features like large trees, diverse understory vegetation, and abundant dead wood – creating a wide range of ecological niches and microhabitats.<sup>10</sup>

The biodiversity of old-growth forests is essential for maintaining ecosystem functioning and resilience. A diverse array of species contributes to processes like nutrient cycling, carbon sequestration, and water regulation. Old-growth forests also provide habitat for threatened and endangered species, making them biodiversity strongholds. Maintaining a mosaic of old-growth forests and forests of different ages is crucial for preserving the full spectrum of biodiversity an ecological integrity across landscapes.<sup>11</sup>

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<sup>7</sup> DEIS, pp S-1 and 57. However, Barnett et al. (2023) consider logging a continued threat to old forests.

<sup>8</sup> DEIS, p. S-4.

<sup>9</sup> DEIS, p. S-4.

<sup>10</sup> DEIS, p. 58, citing Brockerhoff et al. 2017.

<sup>11</sup> DEIS, p. 59.

MOG forests on NFS lands play an outsized role in providing habitat for several MOG associate species listed as threatened or endangered under the US Endangered Species Act. For example, the “most robust”<sup>12</sup> populations of the endangered black pinesnake occur within the DeSoto National Forest in Mississippi, which includes about 68% of the species’ critical habitat<sup>13</sup>; 67% of the threatened Mexican spotted owl’s designated critical habitat in the Southwest is on national forests<sup>14</sup>; 70% of the endangered Southern Sierra Nevada Distinct Population Segment (DPS) of fisher proposed critical habitat<sup>15</sup> is spread across the Inyo, Sequoia, Sierra and Stanislaus national forests; and 88% of the threatened Coastal DPS of the Pacific marten’s critical habitat<sup>16</sup> is on national forests in the Pacific Northwest. The threatened Contiguous United States DPS of the Canada lynx is distributed across six geographic units.<sup>17</sup> About 56% of that six-unit area occurs on NFS lands compared to private, state, Tribal, and other federal. If the Northern Maine Unit (an outlier with no NFS lands) is excluded, that percentage jumps to 80%. The units in the western states contain primarily national forest lands and include Northwestern Montana/Northeastern Idaho Unit (68%), North-central Washington Unit (85%), the Greater Yellowstone Area Unit (80%), and Western Colorado (85%).

We are concerned that the latest proposal for the NOGA falls short of meeting the EO 14072 mandate and the Forest Service’s intents, purposes and aspirations for the policy. The three action alternatives presented in the DEIS for the NOGA offer weaker plan components than the proposed action in the notice of intent (NOI) released for comment December 20, 2023.<sup>18</sup> The modified preferred alternative has at least five problems that we believe will prevent the NOGA from meeting its intent, purpose and need, and EO 14072 mandate; these include,

- Insufficient plan components<sup>19</sup> to provide the ecological conditions to contribute to the recovery and persistence of old and mature forest associate at-risk species<sup>20</sup>,

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<sup>12</sup> US Fish and Wildlife Service. 2022. Species Status Assessment for the Black Pinesnake (*Pituophis melanoleucus lodingi*). September, pg. iv.

<sup>13</sup> 85 Fed. Reg. 11238, February 26, 2020 (Designation of Critical Habitat for Black Pinesnake, Final Rule).

<sup>14</sup> 69 Fed. Reg. 53182, August 31, 2004 (Final Designation of Critical Habitat for the Mexican Spotted Owl).

<sup>15</sup> 87 Fed. Reg. 66987, November 7, 2022 (Designation of Critical Habitat for the Southern Sierra Nevada Distinct Population Segment of Fisher, proposed rule).

<sup>16</sup> 89 Fed. Reg. 46576, May 29, 2024 (Designation of Critical Habitat for the Coastal Distinct Population Segment of the Pacific Marten).

<sup>17</sup> U.S. Fish and Wildlife Service. 2017. Species Status Assessment for the Canada lynx (*Lynx canadensis*) Contiguous United States Distinct Population Segment. Version 1.0, October, Table 2, p. 14.

<sup>18</sup> 88 Fed. Reg. 88042, December 20, 2023.

<sup>19</sup> Plan components under the planning rule (36 CFR 219.7(e)(1)(i-v)) are: desired conditions, objectives, standards, guidelines, and suitability of lands.

<sup>20</sup> This is a requirement of the Planning rule, 36 CFR 219.9(b)(1).

- Lack of plan components to enable passive management as a legitimate, intentional vegetation management method for MOG forests,
- Plan components that, in aggregate, could lead to degradation and a net loss of old growth forests to “proactive stewardship” (i.e., active vegetation management),
- Insufficient plan components to provide for the recruitment of old growth forests from mature forest age classes, and
- Overly broad and permissive exceptions to proposed standards that could undermine the purpose and need of the NOGA.

We provide recommendations for addressing these weaknesses in the NOGA in the sections below.

## **Recommended changes for the National Old Growth Amendments<sup>21</sup>**

- 1. Revise and include plan components that better provide the ecological conditions to contribute to the recovery and persistence of mature and old growth forest associate at-risk species.***

Under the planning rule, land management plans must include standards and guidelines that

provide the ecological conditions necessary to: contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern within the plan area.<sup>22</sup>

The DEIS acknowledges the need to comply with this planning rule requirement in the NOGA.<sup>23</sup> We recommend the Forest Service incorporate this requirement more explicitly into NOGA plan components. In this section we suggest the following revisions to selected plan components, and our recommendations throughout these comments are intended to improve the NOGA in ways that it will better benefit at-risk species.

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<sup>21</sup> We recommend changes to plan components by using underlined red text for suggested additions and ~~strikeout text~~ for deletions.

<sup>22</sup> 36 CFR 219.9(b)(1).

<sup>23</sup> DEIS, p. 9.

➤ Revise Desired Condition 4 to read:

Old-growth forests contribute to the ecological integrity of terrestrial and aquatic ecosystems within the plan area, in concert with other successional stages that are also necessary for ecological integrity, and provide the ecological conditions to contribute to the recovery of federally listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern within the plan area.

This modification to Desired Condition 4 makes explicit the need to comply with planning rule requirement 36 CFR 219.9(b)(1). We are concerned Standard 2.a, which we address in Section 3 below, infers that contributing to at-risk species recovery, conservation, and persistence may be optional.

➤ Standard 1 should be revised in the following way to clarify its intent:

Old growth forests will be ~~determined~~ identified using definitions and associated criteria established in the land management plan. Where these definitions and associated criteria are found to be incomplete (i.e., only address some but not all ecosystems found in the planning area for which old-growth forest does or may exist) or are non-existent in the plan, the planning unit's corresponding regional old-growth forest definitions and associated criteria, or successor regional definitions and criteria, will be applied in part when these are incomplete or in full when non-existent. Minimum definitions or criteria for old growth forests should not be used as a target for management outcomes.

Standard 1 could be interpreted by local land managers as requiring management of existing old growth forests to the minimum definitions and criteria found in either existing forest plans or regional definitions. For example, some old growth forest technical guides<sup>24</sup> have been used as *management targets* to reduce the quality and complexity of old growth forests, rather than as tools to identify when a stand is meeting minimum old growth metrics. Given that the NFS is lacking in old growth forest characteristics, proactive stewardship must not be used to “manage to the minimum” old growth forest definitions or criteria. Our recommended changes to Standard 1 help remedy this problem.

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<sup>24</sup> Green, P., Joy, J., Sirucek, D., Hann, W., Zack, A., and Naumann, B. 2011. [Old-growth Forest Types of The Northern Region](#). December.

- Make the following modification to Guideline 3 to better protect old trees:

To preserve the cultural and historical value of old trees occurring **inside and** outside of old-growth forests, vegetation management projects should retain and promote the conservation and survivability of old trees that are rare when compared to nearby forested conditions that are of a noticeable younger age class or unique in their ability to persist in the current or future environment, and are not detracting from desired species composition or ecological processes.

We appreciate and support the recognition of the value and retention of legacy, remnant, relic, or otherwise individual trees in Guideline 3.<sup>25</sup> Large, old trees are “keystone structures,” defined as “distinct spatial structures having a disproportionately large effect on the presence and abundance of other species.”<sup>26</sup> However, we also note that there is no requirement in other plan components to retain old trees that are located within or outside old *stands* of trees. While such retention may appear self-evident, the language of the guideline does not specifically require it. Our suggested modification to Guideline 3 ensures that old trees are conserved wherever they are found.

- Revise the monitoring provision, Plan Monitoring 2, to include focal species monitoring, as follows:

Within the biennial monitoring evaluation report, provide monitoring questions and associated indicators to assess the **abundance, representativeness, redundancy, connectivity, and** resilience of old-growth forests and inform adaptive management; include regular updates on actions taken pursuant to this amendment; identify unintended consequences to other social, economic, or ecologic plan objectives; **include population abundance and distribution trends of old growth associate focal species;** and provide updates on measurable changes in unit-level old-growth forest when new national inventory information is available.

Plan-level monitoring should explicitly require the selection and use of old-growth dependent focal species for monitoring changes in old-growth ecosystem conditions to complement vegetation monitoring. Monitoring provisions should include at least one focal species that appropriately enables the Forest Service to detect changes in old-growth forest conditions and better infer changes in at-risk species abundance and distribution trends. Focal species represent a part of the monitoring requirements for ecological

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<sup>25</sup> DEIS, p. 34.

<sup>26</sup> Lindenmayer, D.B. and Laurance, W.F., 2017. [The ecology, distribution, conservation and management of large old trees](#). *Biological Reviews*, 92(3), pp.1434-1458.

sustainability and diversity of plant and animal communities.<sup>27</sup> We provided a detailed rationale for including focal species monitoring in our scoping comments.<sup>28</sup>

## **2. Include passive stewardship as a management method.**

The modified preferred alternative indicates that “proactive stewardship,” i.e., active vegetation management, is the only method for managing forests that meet the old growth definitions and criteria.<sup>29</sup> This is particularly evident in Standard 2.a., which begins with, “Where conditions meet the definitions and associated criteria of old-growth forest, vegetation management may only be for the purpose of proactive stewardship” and continues with a list of vegetation management mechanisms, which “includes – but is not limited to – prescribed fire, timber harvest, and other mechanical/non-mechanical treatments used to achieve specific silviculture or other management objectives (e.g. hazardous fuel reduction, wildlife habitat improvement).”<sup>30</sup> Standard 2 applies to old forests of all kinds regardless of whether silvicultural intervention would benefit those forests and the wildlife dependent on them or not.

In many cases, old growth characteristics are best conserved and promoted by enabling and not disrupting natural ecological processes such as wildfire, insect outbreaks, and blowdowns. Passive management or intentional, inactive management is often the most ecologically appropriate management pathway.<sup>31</sup> For example, nearly half of the inventoried old growth can be classified as infrequent fire forest types<sup>32</sup> where active management is not necessary to maintain their ecological integrity and resilience.<sup>33</sup> Moreover, fuels treatments in moist forests with infrequent fire regimes are unlikely to

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<sup>27</sup> Forest Service Handbook 1909.12.32.13c.

<sup>28</sup> Defenders of Wildlife. 2024. [Scoping Comments for the Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System](#). February 2. pp. 9-12.

<sup>29</sup> These criteria are “quantitative measurement criteria, using structural characteristics” for developing regional definitions of MOG forests in the 2024 (revised) Forest Service and BLM inventory, [Mature and Old-Growth Forests: Definition, Identification, and Initial Inventory on Lands Managed by the Forest Service and Bureau of Land Management](#), p. 1.

<sup>30</sup> A minor point, but Standard 2.a. contains the definition of proactive stewardship, which is unnecessary because the term is in the glossary.

<sup>31</sup> The Forest Service seems to concur in other policy guidance that passive management is the appropriate pathway. For example, the 2024 [Technical Guidance for Standardized Silvicultural Prescriptions for Managing of Old-Growth Forests](#) (pp. 4 and 6) directs project developers to “defer” treatment unless needed to improve the stand’s trajectory toward desired conditions; See also Forest Service Handbook 2409.17.80.2.

<sup>32</sup> Forest Service and BLM. 2024 [Mature and Old-growth Forests: Definition, Identification, and Initial Inventory](#).

<sup>33</sup> See Halofsky, J.S., Donato, D.C., Franklin, J.F., Halofsky, J.E., Peterson, D.L. and Harvey, B.J., 2018. [The nature of the beast: examining climate adaptation options in forests with stand-replacing fire regimes](#). *Ecosphere*, 9(3), p. e02140.



affect fire behavior because fires in these systems are typically driven by extreme weather conditions.<sup>34</sup> The NOGA should provide direction to reflect this. We recommend the following.

- Define the concept of passive stewardship in the glossary and modify the definitions of stewardship and proactive stewardship. Include the following changes:

**Passive stewardship:** Inactive vegetation management that promotes the quality, composition, structure, pattern, or ecological processes necessary for old-growth forests to be resilient and adaptable to stressors and likely future environments.

**Stewardship:** The management of forests for any goods, benefits, and values that can be sustained for present and future generations (Dictionary of Forestry; Bethesda, MD: Society of American Foresters, Page 72 and 177). Also see the definitions of “co-stewardship,” ~~and~~ “proactive stewardship,” and “passive stewardship.”

**Proactive stewardship:** ~~Refers to~~ Intentional management that promotes the quality, composition, structure, pattern, or ecological processes necessary for old-growth forests to be resilient and adaptable to stressors and likely future environments, and includes both active vegetation management (e.g., prescribed fire, managed natural ignitions, cultural burning, timber harvest, timber or biomass removal, hazardous fuel reduction, wildlife habitat improvement, and other mechanical/non-mechanical treatments used to achieve specific silviculture or other management objectives) and passive management and restoration that focuses on reducing anthropogenic stressors where appropriate.

- In Standard 2.a, explicitly recognize passive management to conserve the old growth forests where natural recovery potential is high.<sup>35</sup> We recommend the following changes to Standard 2.a:

Where conditions meet the definitions and associated criteria of old-growth forest, manage the forest for the retention and enhancement of those characteristics using either passive or proactive stewardship approaches, as ecologically appropriate, as

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<sup>34</sup> Reilly, M.J., Halofsky, J.E., Krawchuk, M.A., Donato, D.C., Hessburg, P.F., Johnston, J.D., Merschel, A.G., Swanson, M.E., Halofsky, J.S. and Spies, T.A., 2021. [Fire ecology and management in Pacific Northwest forests](#). *Fire Ecology and Management: Past, Present, and Future of US Forested Ecosystems*, pp. 393-435.

<sup>35</sup> See Gann, G.D., McDonald, T., Walder, B., Aronson, J., Nelson, C.R., Jonson, J., Hallett, J.G., Eisenberg, C., Guariguata, M.R., Liu, J. and Hua, F., 2019. International principles and standards for the practice of ecological restoration. *Restoration ecology*, 27(S1), pp.S1-S46.

determined by the best available scientific information. ~~vegetation management may only be for the purpose of p~~ Proactive stewardship shall maintain, or contribute towards the restoration of the quality, structure, distribution, abundance, pattern, ecological processes, and composition characteristic of the desired old growth forest type, taking into account the contribution of the stand to landscape fire adaptation and watershed health and retaining the large trees contributing to old growth structure as appropriate for this forest type. For the purposes of this standard, the term “vegetation management” includes – but is not limited to – prescribed fire, timber harvest, and other mechanical/non-mechanical treatments used to achieve specific silviculture or other management objectives (e.g. hazardous fuel reduction, wildlife habitat improvement). For the purposes of this standard, the term “proactive stewardship” refers to vegetation management that promotes the quality, composition, structure, pattern, or ecological processes necessary for old-growth forests to be resilient and adaptable to stressors and likely future environments. Proactive stewardship in old-growth forests shall promote one or more of the following:

The definition of “vegetation management” should be removed from the standard and instead be incorporated into the definition of proactive stewardship in the glossary.

Additionally, we recommend deleting the list of 12 key characteristics of ecological integrity associated with old-growth forests. Standard 2.a offers a choice to line officers of managing for one of these characteristics. However, a resilient forest contributing to ecological integrity should have all of the characteristics in this list, except for 2.a.viii, “successional pathways and stand development.” What “successional pathways and stand development” means is unclear; if the list of characteristics remains in the standard, 2.a.viii should be deleted.

**3. *Ensure that old growth forest conditions are not degraded by proactive stewardship.***

The preferred alternative allows for proactive stewardship to degrade existing old growth conditions, which may or may not recover in the future through succession or otherwise. The DEIS states, “there is no requirement that [old-growth] areas continue to meet the definition of old-growth when managed for the purpose of proactive stewardship.”<sup>36</sup> The Forest Service acknowledges in the DEIS that application of the preferred alternative’s standards and exceptions will result in old growth forest loss.<sup>37</sup> There is no requirement that

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<sup>36</sup> DEIS, p. 16.

<sup>37</sup> DEIS, pp. 16-17 and 103-106.

old growth forests lost in one area will be replaced/recruited in other areas to make up for the loss to prevent a net loss across individual units and NFS lands in aggregate.

Excluding prohibitions on the loss of old growth forest characteristics is not consistent with the purpose, need and desired conditions and contradicts the intention of EO 14072. Along with revising Standard 2.a, as recommended above in Section 2, we recommend the following.

➤ Return Standard 1—the non-degradation standard—in the Proposed Action from the Notice of Intent.<sup>38</sup> The NOI standard reads:

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.

The DEIS states that the Forest Service eliminated Standard 1 proposed in the NOI from the preferred action because it was “redundant” with Standard 2.a.<sup>39</sup> We disagree. NOI Standard 1 provides the only requirement that vegetation management activities not degrade or impair an old-growth forest beyond the definition of “old growth.”

➤ Delete Standard 2.b.

~~The cutting or removal of trees in old-growth forest for purposes other than proactive stewardship is permitted when (1) incidental to the implementation of a management activity not otherwise prohibited by the plan, and (2) the area—as defined at an ecologically appropriate scale—continues to meet the definition and associated criteria for old-growth forest after the incidental tree cutting or removal.~~

The allowance for cutting old-growth forests when “incidental to the implementation of a management activity not otherwise prohibited” is much too open-ended and invites misuse. Standard 2.b makes old-growth conservation subordinate to other multiple uses and defeats the purpose of the policy by providing an exception that could facilitate the loss of extant and quality old-growth forests at an indeterminable scale. And this is confirmed in the Forest Service’s Draft Ecological Analysis Report accompanying the DEIS, which states, “It should be acknowledged that [ ] infrastructure or multiple use activities

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<sup>38</sup> 88 Fed. Reg. 88042, December 20, 2023.

<sup>39</sup> DEIS, p. 28.

may be large enough that they impact whether an area meets the definition and associated criteria of old-growth at the ecologically appropriate scale.”<sup>40</sup>

- Tighten and add clarity to vague and overly permissive exceptions to Standard 2.a in Standard 2.c. We address this need in Section 5 below.

#### **4. Provide for the recruitment of old growth forests.**

The Forest Service needs a policy protecting older trees and forests because of a severe deficit of old-growth forests. As the NOI implicitly acknowledges, it is not sufficient merely to conserve the old growth that is left, the amount of which will erode over time due to natural succession—it is also imperative to recruit new old growth.

- Revise Desired Condition 1 to include the importance of old growth recruitment from mature age classes. To address the issue of recruitment of old growth forests over time, we suggest the following amendments to Desired Condition 1:

Old-growth forests **and mature forests, sufficient to recruit old growth forests over time,** occur in amounts and levels of representativeness, redundancy, **and** connectivity, **and quality** such that conditions **are within or moving toward the natural range of variation and are** resilient and adaptable to stressors and likely future environments.

This amended desired condition includes appropriate species composition, quality, and scale as Desired Conditions of old growth forests and specifically adds mature forest recruitment as a Desired Condition.

- Delete all management approaches for the adaptive strategies and add the following standard:

**Where conditions do not currently meet the definitions and associated criteria of old-growth forest, identify, prioritize, and manage forests for the recruitment of old-growth at the appropriate ecological scale. Passive or proactive stewardship shall be sufficient to meet desired conditions based on ecological integrity, inherent capability, threats, stressors, and opportunities relevant to the plan area.**

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<sup>40</sup> Forest Service. 2024. Draft Ecological Impacts Analysis Report for the Draft EIS for Amendments to LMPs to Address Old-Growth Forests Across the NFS, p. 98.

The NOGA cannot rely on management approaches as the mechanism for old growth forest recruitment. A stated purpose of the NOGA is to,

Facilitate the development of geographically informed *adaptive strategies* for old-growth forest conservation to support the effective implementation of this amendment and enable co-stewardship with Tribes and Alaska Native Corporations and collaboration with States, local governments, industry partners, and public stakeholders.<sup>41</sup> (emphasis added)

The modified preferred alternative includes a set of four management approaches as the vehicle for developing adaptive strategies and deploying the NOGA at the national forest or grassland unit level and for implementing old growth recruitment.

There are problems with the content in the management approaches for developing the adaptive strategies. However, a larger issue is the structural or procedural problem of using a land management plan amendment as the mechanism for mature and old growth conservation policy and management approaches for the implementation of the policy. In the planning rule, a management approach is “optional plan content,”<sup>42</sup> and forest supervisors have discretion to change them administratively with public notice but no public comment.<sup>43</sup> Management approaches do not compel action<sup>44</sup>, as indicated by this passage in the Forest Service Handbook,

The management approaches *can convey* a sense of priority and focus among objectives and the likely management emphasis. Management approaches should relate to desired conditions and *may indicate* the future course or direction of change, recognizing budget trends, program demands and accomplishments. Management approaches *may discuss* potential processes such as analysis, assessment, inventory, project planning, or monitoring.<sup>45</sup> (emphasis added)

The Handbook states that management approaches should not, “create unrealistic expectations regarding the delivery of programs.”<sup>46</sup> We are concerned that the PA’s management approaches will be ineffective at stabilizing expectations among participating

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<sup>41</sup> DEIS, p. S-6.

<sup>42</sup> As stated in the planning rule, “a plan may include additional content, such as potential management approaches or strategies and partnership opportunities or coordination activities.” 36 CFR 219.7(e)(2).

<sup>43</sup> 36 CFR 219.13(c)(2).

<sup>44</sup> 36 CFR 219.2(b)(2).

<sup>45</sup> Forest Service Handbook 1909.12.22.4.

<sup>46</sup> Forest Service Handbook 1909.12.22.4.

stakeholders and Tribes, given the inherent uncertainty about the durability of management approaches.

Our recommended standard is concise and clear and provides essential direction to line officers to recruit old growth forests from mature age classes. It also allows some flexibility regarding the scale at which identification and prioritization is to occur, though likely at the unit level.

## **5. Clarify and limit the scope of exceptions to the standards.**

The exceptions to the standards embedded in Standards 2.a and 2.b are overly broad and/or vague. We believe these exceptions will lead to confusion by line officers as to how to apply them and public controversy over their scope and frequency of use. Although the supporting documentation in the Draft Ecological Impacts Analysis Report states that the use of these exceptions is expected to be “minimal” and affect less than 5% of the old growth on each National Forest,<sup>47</sup> there is no basis in the DEIS or supporting documentation to justify this assumption. As stated above in Section 3, the Draft Ecological Report acknowledges that the exceptions in Standard 2 may result in the loss of old growth forests at relevant scales.<sup>48</sup> If this is the case, the preferred alternative does not meet the purpose and need, nor does it achieve the Desired Conditions of the amendments.

While some of the exceptions (e.g., 2.c.ii or for Tribal use) may be appropriate, the remainder are problematic. We recommended deleting the Standard 2.b exception in Section 3 above and Guideline 1 in Section 4. We focus here on the exceptions in Standard 2.c, which lists a series of exceptions to Standards 2.a and 2.b. The following revisions are essential to ensure that the exceptions are limited.

➤ Make the following changes to the main, introductory text of Standard 2.c:

Deviation from Standard 2.a and 2.b **is only allowed** ~~may only be allowed~~ if the responsible official determines that vegetation management actions or incidental tree-cutting or removal are **the minimum intervention** necessary for the following reasons and includes the rationale in a decision document or supporting documentation.

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<sup>47</sup> Forest Service. 2024. Draft Ecological Impacts Analysis Report, p. 100.

<sup>48</sup> Forest Service. 2024. Draft Ecological Impacts Analysis Report, p. 98.

These changes clarify that deviations must be the minimum necessary to meet other desired conditions or multiple use objectives. In other words, the fact that a small deviation is necessary does not authorize a large unnecessary deviation from the standards.

➤ *Make the following changes to Standard 2.c.i:*

In cases where this standard would preclude achievement of wildfire risk management objectives for municipal water supply systems within municipal watersheds or the wildland-urban interface (WUI) as identified in the 2010 Wildland-Urban Interface of the Conterminous United States map or successor map defined in Section 101 of the Healthy Forest Restoration Act of 2003 (16 USC 6511) and its application by the local planning unit, or would prevent protection of critical infrastructure from wildfire;...

This exception allows for vegetation management or “incidental tree-cutting and removal” of old growth when necessary for wildfire risk reduction activities in municipal watersheds or the wildland urban interface (WUI) pursuant to the Healthy Forests Restoration Act (HFRA).

While it is essential that the Forest Service retain the ability to reduce wildfire risk in appropriate locations, this exception has at least three problems. First, a significant portion of old growth forest exists in the WUI. The DEIS states that “frequent fire ecosystems make up the majority of the WUI,”<sup>49</sup> where proactive stewardship may be appropriate. The Draft Ecological Report notes that 25% of old growth (6.2 million acres) is in the WUI.<sup>50</sup> Standard 2.c.i, therefore, has the potential to result in the loss of up to 25% of old growth at ecologically relevant scales.<sup>51</sup> Second, although Standard 2.c.i refers to the definition of “wildland urban interface” from HFRA, the Forest Service is now using the *2010 Wildland-Urban Interface of the Conterminous United States* map<sup>52</sup> as the best available scientific information to identify and delineate WUI boundaries.<sup>53</sup> Third, the application of Standard

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<sup>49</sup> DEIS, p. 99.

<sup>50</sup> Forest Service. 2024. Draft Ecological Impacts Analysis Report, pp. 98 and 81.

<sup>51</sup> DEIS, p. 104; Forest Service. 2024. Draft Ecological Impacts Analysis Report, p 98.

<sup>52</sup> Martinuzzi, S.; Stewart, S. I.; Helmers, D.P.; Mockrin, M.H.; Hammer, R.B.; Radeloff, V.C. 2015. [The 2010 wildland-urban interface of the conterminous United States](#). Research Map NRS-8. Newtown Square, PA: U.S. Department of Agriculture, Forest Service, Northern Research Station.

<sup>53</sup> We also note that NOGA cannot rely on the HFRA definition of WUI, because HFRA allows for community wildfire protection plans (CWPPs) to change WUI boundaries. The Planning Rule states that “...a plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area (including management areas or geographic

2.c.i to “municipal watersheds” as drafted is overly broad. The modified preferred alternative does not define municipal watersheds. Consequently, application of this exception could result in the loss of old growth forest characteristics. Our recommended revision to Standard 2.c.i substitutes “municipal water supply systems” for “municipal watersheds,” which appears in and is defined by HFRA.

➤ Delete Standard 2.c.iii:

~~to comply with other statutes or regulations, valid existing rights for mineral and energy resources, or authorizations of occupancy and use made prior to the old-growth amendment decision;~~

This exception is unnecessary because the NOGA provisions would not trump statutes, regulations, or valid existing rights. Additionally, deleting the portion of Standard 2.c.iii that refers to prior decisions would be consistent with the 2012 Planning Rule 36 CFR 219.15(c) on resolving project and activity inconsistencies with the plan, which states,

When a proposed project or activity would not be consistent with the applicable plan components, the responsible official shall take one of the following steps, subject to valid existing rights: (1) Modify the proposed project or activity to make it consistent with the applicable plan components; (2) Reject the proposal or terminate the project or activity; (3) Amend the plan so that the project or activity will be consistent with the plan as amended; or (4) Amend the plan contemporaneously with the approval of the project or activity so that the project or activity will be consistent with the plan as amended. This amendment may be limited to apply only to the project or activity.

➤ Standard 2.c.iv should be revised as follows to better represent the underlying intent of the exception:

for culturally significant uses as informed by Tribes **and Indigenous Knowledge**; ~~or for de minimis use for local community purposes;~~

This exception allows for vegetation management or “incidental tree-cutting and removal” of old growth for Tribal cultural uses and “for de minimis use for local community purposes.”<sup>54</sup> We do not object to the application of this Standard to Tribal cultural uses. Based on information gained through our participation in the NOGA development process,

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areas).” 36 C.F.R. § 219.13(a) (emphasis added). Reliance on HFRA and its definition of the WUI therefore would trigger a plan amendment if and when CWPPs are developed or revised.

<sup>54</sup> DEIS, p. 31.



we understand that the Forest Service intends for this exception to authorize microsales of old growth forest under the Southeast Alaska Sustainability Strategy (SASS). As the DEIS states,

The Department and Agency remain committed to the Southeast Alaska Sustainability Strategy. The intent is that, in the limited instances where implementation of the SASS is not consistent with the definition of proactive stewardship in old-growth forests, the combined use of Standards 2.c.iii and 2.c.iv would allow for continued implementation of the Southeast Alaska Sustainability Strategy, including for small sales for local mills, music wood, and culturally significant uses like totem poles.<sup>55</sup>

However, the Draft Ecological Impacts Analysis Report states that “it is assumed that the small commercial sales would not occur under Alternatives 2 and 3, although there may be ecologically appropriate stewardship actions under NOGA-FS-STD 2a and non-commercial activities in accordance with the exceptions.”<sup>56</sup> The DEIS and supporting documentation are inconsistent. To resolve the inconsistency, the Forest Service should adopt the language from the Draft Ecological Report. There is no need for a Tongass- or SASS-specific exception from the standards. The recommended change avoids inadvertently stretching the “de minimis” concept in Standard 2c.iv to include SASS.

Outside of the SASS context, we understand that this exception is intended to allow for the collection of firewood for community use.<sup>57</sup> While we support the local use of excess biomass for fuel/firewood purposes, this exception is problematic. It should not be the case that communities are cutting and removing *old growth trees* for fuel/firewood purposes; and we point out that such activities would be inconsistent with Guideline 3 that provides for the conservation of legacy old growth trees.

➤ Make the following changes to Standard 2.c.v to provide more clarity in the exception and exclude Research Natural Areas from the exception:

In cases where adherence to Standard 2a would unreasonably interfere with ongoing research in areas designated for research purposes, such as experimental forests ~~or research natural areas~~; or

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<sup>55</sup> DEIS, p. 33.

<sup>56</sup> Forest Service. 2024. Draft Ecological Impacts Analysis Report, p. 100.

<sup>57</sup> DEIS, p. 105.

Research Natural Areas (RNAs) are intended to be reference areas and must be managed “in a virgin or unmodified condition except where measures are required to maintain a plant community which the area is intended to represent.”<sup>58</sup> Furthermore, as stated in the Forest Service Manual, “Research Natural Areas may be used only for research and development, study, observation, monitoring, and those educational activities that do not modify the conditions for which the Research Natural Area was established.”<sup>59</sup> RNAs have been designated to “Protect against human-caused environmental disruptions...Serve as reference areas for the study of natural ecological processes including disturbance and climate change[, and]...Serve as baseline areas for measuring long-term ecological changes.” FSM 4063.02. Therefore, there should be no old growth forest harvest in RNAs and, it is inappropriate to include RNAs in the exception.

➤ Delete Standard 2.c.vi.

~~in cases where it is determined – based on best available science, which includes Indigenous Knowledge – that the direction in this standard is not relevant or beneficial to a particular species or forest ecosystem type.~~

This exception is overly broad. The DEIS included the following rationale for the standard:

2.c.vi is intended to recognize that not all ecosystem types in a plan area have the ecological capacity or ecosystem potential to reach an old-growth forest development stage. Examples may include – but are not limited to – birch, aspen, jackpine and lodgepole pine when these are further characterized by physical elements, climatic regime, or natural disturbance processes.<sup>60</sup>

Despite this explanation of the agency’s intent, the exception would allow for a line officer, who is not bound by such explanatory text in an EIS, to decide that the proposed amendment “is not relevant or beneficial to a particular species or forest ecosystem type.” The explanatory text also suggests that some forest types do not have old growth characteristics or otherwise reach the old growth successional stage; the best available science does not support this notion.

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<sup>58</sup> 36 CFR 251.23.

<sup>59</sup> Forest Service Manual 4063.02.

<sup>60</sup> DEIS, p. 31.

## **Conclusion**

Defenders appreciates the hard work of Forest Service officials to develop old growth forest policy and review public feedback. We believe accepting the recommendations provided above will result in an improved NOGA that will truly “foster the long-term resilience of old-growth forests and their contributions to ecological integrity across the National Forest System” as the Forest Service intends.