

Deciding Officer, United States Forest Service; Wallowa Ranger District of the Wallowa-Whitman National Forest

RE: Comments on the Draft EA and Finding of No Significant Impact for the Morgan-Nesbit Project

Submitted Via the Online Portal at: <https://cara.fs2c.usda.gov/Public//CommentInput?Project=58961>

December 14, 2024

Dear Deciding Officer:

Following are my comments on the Morgan-Nesbit Project (MNP). I have many more concerns than are articulated in this comment letter, but being given only a brief time to comment on the Draft Environmental Assessment (DEA) and all the associated documents cited therein, I didn't reasonably have time to detail and document all of them.

In my scoping comments, I stated: "Please include me in all public correspondences for, and related to the Morgan Nesbit project." Yet I only heard of the release of the Draft EA through a third party ten days prior to the date of these comments. I'm finding it difficult to believe this was an honest mistake.

These comments are frank and to the point. I believe this project is on a fast track due to funding considerations, that the EA is being rushed, and that NEPA is being (at best) marginalized to expedite the activities proposed. Honestly, I'd like to be more objective, but the process does not allow objectivity, only objection.

The Purpose and Need are Vague and Generic

The Purpose and Need statement contains sweeping, unjustified judgements regarding forest conditions.

Statement #1: "There is a need to modify forest composition and structure altered by historic fire suppression and past forest management activities." This assertion is made without justification based on scientific information. What "forest management activities" is this a reference to? If it's past timber sale activities, why not be specific? Where is the validation for the assumption that present forest composition is unacceptable? Most important, what is the distinction between desired conditions and natural conditions? How can this judgement be valid without consideration of the

constantly changing and evolving nature of forest ecosystems? Claiming more logging will correct a problem created in large part by logging seems a bit nonsensical, doesn't it?

Statement #2: "...reduce the risk of landscape level stand replacing fires and provide safer more effective fire management options." Where is the information that indicates further "management activities" can create a reduced risk of stand-replacing fires, and assist with fire management?

Statement #3: "...restore watershed functions and processes by reducing negative impacts of road networks and conifer encroachment..." This statement makes three unjustified assumptions. First, that reducing impacts depends on implementing the entire plan, including activities that have nothing to do with reducing road network impacts. Second, where is the rationalization for assuming that conifer encroachments are unnatural, and that natural fire will not itself alter composition?

Statement #4: "...provide wood fiber and forest products to support economic wellbeing of local and regional communities." How can providing wood fiber and forest products support economic well-being when the Service has no means of determining who will win the bid for the planned timber sales, guaranteeing that the logs will be milled locally, or that a locally-based logging company will carry out the groundwork? Making the assumption that since sawtimber will be provided, it automatically translates to improved economic well-being, begs for details.

Statement #5: "...implement adaptation strategies that address climate change vulnerability to sustain ecosystem functions." How does the removal of tens of millions of board feet of carbon-storing trees combat climate change? This statement is based on the uneducated assumption that a wildfire that will reduce carbon storage will occur, and be more detrimental to climate than the project itself.

I have seen virtually identical Purpose and Need statements used to validate a number of similar "fuels reduction" projects throughout the region. One example is the Midnight Restoration Project on the Okanogan-Wenatchee National Forest. It even uses the exact same throw-away provisions placed into the original Proposed Action, so that in removing them it would appear you were conceding something in the DEA. The absence of originality is conspicuous.

If this cookie-cutter project is part of a regional or national strategy that uses the same rationale to validate ecosystem-altering actions for every ecosystem and for all conditions, this information must be disclosed.

Unjustified “Finding of No Significant Impact”

How can the deciding officer claim a “Finding of No Significant Impact” (FONSI) when the EA is not yet finalized? If there are changes in the Final EA, the impacts will change, rendering a FONSI that is based on inadequate or inaccurate information. The rationale for this claim should be thoroughly explained.

Based on abundant caselaw, a FONSI in this case is unjustified. I’m not going to cite any caselaw in these comments because (a) it’s not required, and (b) the local office, and/or the regional office already know what it is.

First, the size of the project alone at 86,000 acres dictates significance and demands an EIS. Second, suggesting the preferred alternative’s vast ecosystem alteration across the landscape will have “no significant impact” belies the fact that the pending impacts *must* be significant on their face to achieve the desired objectives.

The EA claims, “current forest structure, tree density, species composition, fuel loading, and upland, riparian, and aquatic habitats have departed from conditions expected within the natural range of variation.” How can the objective of creating contrived conditions, and altering the ecosystem on a landscape scale after over 100 years of mismanagement be met, without having a *significant impact*?

Inadequate Analysis of Historic Conditions

Historical Range of Variability is not a definitive concept, and treats the dynamic forest ecosystem as if forest conditions are predictable within a contrived model. It depicts past conditions that are presumed to be desirable via photographs from a very limited time frame time, and presumes they were static and ever-present. It purports that this condition can be re-created with mechanical manipulation of the forest. It denies the reality that forest ecosystems have always been dynamic, continuously changing, and are influenced by unpredictable natural events.

Moreover, climate change has altered natural forest succession to where events that naturally change conditions are no longer predictable under any scenario.

A study produced by By Keane and Hessburg, et-al, *The Use of Historical Range and Variability (HRV) in Landscape Management* states: “Field data in adequate abundance and appropriately scaled are seldom available to define HRV of characteristics at many scales.” This finding applies directly to the MNP. The burden is on the Service to prove it does not.

I could find no documentation in the DEA justifying the claim that the present forest condition is unnatural. The EA's convoluted organization and lack of a table of contents makes it difficult to locate specific information. Thus, I could find no information that indicates what historic conditions were, how they were determined, or that there is a static condition that is common to the forests in the project area over vast time frames.

To provide an accurate depiction of natural or historic conditions, the Service needs to provide substantially more than old photographs of forest conditions in limited areas and within limited time frames. It is quite possible that at times in the past, the existing forest condition was predominant, making it "desirable" from a historical perspective. Moreover, the assumption that the contrived conditions the project purports to create will remain static without further management is invalid. Any further actions that would be implemented to maintain the contrived condition are connected actions that by law must be disclosed.

Inadequate Range of Alternatives

The preferred alternative for the MNP is based on the assumption that natural succession cannot provide solutions to undesirable conditions, and that (again) by applying the same management activities (logging and fire suppression) that the Service admits caused the forests in the project area to become "undesirable" and to have "departed from Historic Conditions" will now mitigate the past damage they created.

A problem of the magnitude claimed in the DEA requires a thoughtful and comprehensive evaluation of options to address the perceived problem. Yet, for example, the depiction of the No Action Alternative, the only other alternative offered, is patently prejudiced. There appears to be an assumption that natural forces cannot contribute to changing the conditions in a positive way, and that nature is an inherently negligent "manager."

Under the heading "Consideration of No Action: What would happen if we took no action?" provides a gross misrepresentation of the consequences of taking no action by painting an unjustified scenario of disastrous events without quantifying the possibility of such occurrences, or that they may be mitigated by natural succession.

The DEA states: "This [preferred] alternative would allow forest stands, identified as needing treatment, to progress through successional processes resulting from fire exclusion and past management." The assumption that human action is essential to facilitating successional processes is illogical.

Further, the DEA concludes: “If proposed treatments were excluded, overgrown and unhealthy forest conditions would continue, and the risk of future uncharacteristic wildfire would increase. Insect and disease mortality would continue to exacerbate conditions on the landscape. Without treatment, forest conditions would continue to be less resilient to disturbance from climate change, drought, and wildfire. Important forest structural stages and species composition diversity would continue to be underrepresented on the landscape and favor shade tolerant species and ladder fuel accumulations. Conifer encroachment into aspen stands and wet meadows would continue to negatively affect those habitats and associated wildlife...”

The DEA makes no attempt to determine what exactly constitutes the described “uncharacteristic wildfire,” or that natural fires would not be of a magnitude that would restore natural conditions. It fails to predict the degree or intensity of fires that can be reasonably expected to occur, or what acceptable levels of insects and disease are, or if the Service intends to eliminate these natural occurrences to create a generically contrived forest.

To provide a truly accurate snapshot of what might occur if no action was taken, it is imperative that the DEA include a depiction of what natural forest evolution can be expected to produce, for example, low-intensity wildfires that would better restore forest conditions than the preferred alternative without its associated impacts. Natural evolution would not result in soil erosion from road construction, removal of commercially desirable but fire-resistant trees, or soil disturbance from skidding of logs in areas where commercial thinning is taking place. It might thereby be preferable to implementation of the MNP.

The inclusion of only a single action alternative also violates NEPA. What the Service is saying is that in the 86,000 acre project area, there is only one way to address the Needs and achieve project objectives, and that varying intensities of the actions proposed, or additional actions such as the initiation of intensive fire prevention measures, could not produce a plan of action that would be more beneficial. A suite of divergent plans that could be analyzed to determine which might achieve the objectives with less impact on the environment is imperative.

Regarding prevention, a study by University of Colorado, Boulder’s Earth Lab (published in The Smithsonian) found that, based on Forest Service data, 84 percent of wildfires are human-caused. It is the height of irresponsibility to proceed with heavy-handed industrial activities reputedly designed to prevent destructive wildfires when the majority of destructive wildfires could be prevented with public education and intensive fire

prevention enforcement measures. As one who was trained in fire behavior and prevention by the Forest Service, I would enjoy engaging in discussions about ways to reduce human-caused fires. The options are practically endless if the Service would consider prevention a viable option. Why it does not reflect a compulsion toward heavy-handed commercial activities and the motive of maximizing timber production.

Again, altering the forest to a contrived condition assumes that such condition will sustain indefinitely, as if conditions will remain acceptable into the foreseeable future. The Service must justify this sweeping assumption by disclosing why the forest condition will remain as the project put it, or what actions will be necessary to maintain the contrived condition. What is the end game where natural succession can resume its role in shaping the forest?

Finally, the objective of reducing wildfire risk will not be met unless the Service discloses how it will strike a balance between suppressing natural wildfires to protect homes and communities in the age of climate change, while still allowing wildfires to shape the ecosystem as part of the natural fire cycle.

Public Involvement

The EA states that the ID Team met with “several external partners,” and cites field visits with four organizations, but does not disclose which are designated “partners” who were involved in project conception, i.e.; development of the Proposed Action, and which entities were restricted to general input provided in reaction to the proposed action during designated public comment periods. The Service must disclose these partners, and provide a distinction between who is technically designated as a “partner.” And it must justify why those particular entities are given preferential treatment in sharing information and providing input toward the development of the Proposed Action, and other publics were not. It should disclose how one gets to become a “partner.”

The HCNRA Act is Ignored

The 38,000 acres of the project area that are within the HCNRA should either not have been included in the project area, or should have been effected only by distinct directives that comply with the HCNRA Act.

The MNP DEA provides virtually no distinction in management directives between the HCNRA and adjacent Wallowa District lands. This betrays the objectives for which the HCNRA was designated.

In my scoping comments, I reminded the Service that Section 7 of the HCNRA Act requires that any management activities including logging be compatible with "... conservation of scenic, wilderness, cultural, scientific, and other values contributing to the public benefit; preservation...of all features and peculiarities believed to be biologically unique including, but not limited to, rare and endemic plant species, rare combinations of aquatic, terrestrial, and atmospheric habitats, and the rare combinations of outstanding and diverse ecosystems and parts of ecosystems associated therewith; and protection and maintenance of fish and wildlife habitat..." That the Service continues to deny the HCNRA Act is a matter that begs for explanation, but is consistently ignored by the agency. This indicates that the Forest Service is unable to manage specially-designated areas, and show it has more versatility in its philosophy than simply manipulating forest ecosystems.

The DEA fails to identify the named values contributing to the public benefit, nor does it propose any measures to ensure these values are not infringed upon. It fails to describe which areas are biologically unique, or where there are outstanding and diverse ecosystems and parts of ecosystems. How can these be protected if they are not even identified?

The HCNRA Act requires all "timber harvesting" be by selective cutting, and that logging must be restricted to levels of activity and in areas of such activity at the time of enactment of the HCNRA Act. Yet the DEA cites the use of "patch cuts," a euphemistic reference to what are commonly known as clearcuts, which do not meet the HCNRA requirement of "selective cutting." This semantic manipulation subverts the clear intent of congress. Roadless areas, or areas where no previous logging occurred must be identified, and no commercial logging should be allowed in these areas.

The required special rules as dictated by Section 10 of the HCNRA Act state: "The Secretary shall promulgate...rules and regulations...to accomplish the purposes of this Act... including standards for timber harvesting by selective cutting...". The regulations published do not set standards, they merely describe when logging can occur, not where or how.

Incomprehensibly, compliance with the HCNRA Act was not listed as an issue considered for analysis, though it was raised by multiple commenters. The DEA states that, "no issues were identified as significant or presented unresolved conflict with the Proposed Action." This is false, as respect for the directives of the HCNRA Act represents an unresolved conflict that the Service was well aware of prior to the publication of the DEA.

Inadequate consideration of the Environmental Effects

Discussion on the Potentially Affected Environment is brushed off with the statement: “Potential environmental effects from implementation of the proposed activities are well known and have all previously occurred elsewhere on the Wallowa-Whitman National Forest. The locality and existing conditions are *briefly* (emphasis added) described in the Purpose and Need section of this report. Further detail and effects analysis of the proposed action by resource area for this project can be found in resource reports found in the project record and project website.”

What does this mean? Is the DEA to be considered a perfunctory exercise that dismisses impacts because they are listed in specialist reports, or have been experienced in other areas? What changes have been made to avoid past impacts? Where is the comprehensive analysis of site-specific impacts, and the cumulative impacts of each?

The DEA further states: “Because the existing environment is not static, environmental consequences from selecting this alternative are expected.” Yet the DEA and FONSI claim that these impacts are insignificant. This appears to be a contradiction that affects the very legitimacy of the DEA.

In addition: “Ongoing authorized activities such as recreational uses, and motorized travel would continue, however maintenance of the road system proposed to implement this project would not occur. Road decommissioning and culvert replacements and removals would not occur, and those facilities would continue to negatively affect riparian areas and aquatic habitats. Wood fiber and forest products would not be provided to local and regional economies and job and economic opportunities would not be realized in adjacent communities.”

This brief statement further supports the need for multiple alternatives. The DEA fails to justify why the above actions could not occur independently, without the prescribed commercial thinning and other activities proposed in the DEA. This seems to invalidate the claim that a single alternative that bunches multiple activities together without considering implementation of each within a separate scenario, is adequate.

The Service needs to be reminded that the purpose of an Environmental Assessment is to accumulate site-specific information from a variety of sources, then measure the potential environmental impacts of the Proposed Action/preferred alternative against the information. The DEA avoids this responsibility at all costs.

Instead, the EA lazily forgoes analysis of impacts by saying the agency knows what they are based on previous experience, and what impacts they'd probably have because they've seen the impacts from similar projects. It also punts the analysis to specialists reports while declining to review independent science on the same issues. To be legitimate, the DEA should take the information on the resources in the project area and determine what the site-specific impacts of the proposed action will be.

Condition-Based Management is Deplorable

I oppose implementation of Condition-Based Management. It allows deviation from the EA for vague reasons. How drastically could conditions change during the period of a few months post EA, and prior to project implementation, and in such an innocuous way that further analysis would not be required? By definition, CBM may be used to revise the project to increase commercial logging if the ten proposed timber sales as planned do not attract bidders. It renders the DEA useless, because the impacts to the environment will be different than those presented therein.

As you likely know, the Environmental Protection Agency has repudiated Condition Based Management, and to implement it would fly in the face of NEPA and responsible, accountable management of public trust lands.

And Now, Some Very Frank Parting Thoughts

Now that you've tasted my abject skepticism, and since I've got nothing to lose other than a place that's sacred to me, these final observations on the MNP will be to the point. Hopefully, if you don't agree with them—and as expected, pay no little or no attention to them—you'll at least maintain a sense of humor.

While I don't dispute that many district employees sank a lot of time and energy into designing this project, the enabling NEPA document insults that work. Besides, their efforts were constrained by mandatory timber production objectives.

The Morgan-Nesbit Project DEA continues a well-established pattern of Forest Service insistence that the attempted reconstruction of a vast forest ecosystem is necessary to prevent large wildfires and restore a supposed "desirable" condition, whose historic presence cannot be documented.

It is driven by a self-serving anthropocentric philosophy, and smacks of hubris. It fails to take the time required to thoughtfully explore a variety of options, to allow viable public

involvement, to comply with federal law and consider a broad and objective range of scientific information.

With complete honesty, I would very much enjoy sitting down with Wallowa District personnel to devise projects that would help to mitigate past mismanagement and reduce wildfire risk. Such discussions could include prescribed fire and logging of dense thickets of white fir and lodgepole pine in areas where there is a substantial risk to life or property. However, there would have to be faith that the process is fair and that there is no internal agenda.

It isn't, and there is.

Based on my over 50 years of working with, for, and against the U.S. Forest Service, I believe there is an agenda in the D.C. office to ramp up timber production on the national forests using fire as a surrogate. All projects are being conceived from a generic and grossly inadequate NEPA analysis. It may well be that some district and forest managers have good intentions, but they are working within an infrastructure that hamstringing their best intentions.

I am not optimistic that someone somewhere in the agency with a conscience will stand up and be a whistleblower. If someone does, they will have all my deepest respect. In the interim, I feel the agency as a whole has been stained by its exploitation of wildfire fear. Corruption is the rule, and deceit is the instrument.

Stepping back again, I don't intend for anyone to take this personal. But to summarize, this Draft EA is a perfunctory, cookie-cutter document that fails to perform even the basic analytical tasks that NEPA requires. It lightly attempts to meet the bare minimum requirements of the law, and doesn't even succeed at that.

The Forest Service brass is betting that the federal courts will hesitate to stop a project the agency says is going to protect people from fire and help the economy, and thus will get away with it. If an EA like this one would have wound up court 20 years ago, even a conservative judge would have laughed the Forest Service out the courtroom door.

I suppose you wonder why people like me are so confrontational. You shouldn't, because you offer us no other options. You huddle with the constituencies and organizations that support your agenda, and exclude those that don't, rather than facilitating a level playing field. I realize the Collaboratives are providing valuable political cover, so the smoke-filled room has become a friendly place to hunker down.

Besides, you need to take advantage of the federal funding, the blank check that Congress has provided in its zeal to appear to be protecting people from fire.

Maybe some lower-level Forest Service employees don't fully believe this, but the top-level decision-makers do, and those people should be ashamed of themselves. On that note, this concludes my comments on the Morgan-Nesbit EA.

Regrettably,

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