

**Colorado Wild \* Wilderness Workshop \* Rocky Mountain Recreation Initiative \*  
Colorado Mountain Club**

Scott Fitzwilliams  
Phil Nyland  
USDA Forest Service  
P. O. Box 309  
Carbondale, CO 81623  
via e-mail: [comments-rocky-mountain-white-river-westzone@fs.fed.us](mailto:comments-rocky-mountain-white-river-westzone@fs.fed.us)

January 14, 2011

Dear Mr. Fitzwilliams and Mr. Nyland,

The following are the comments of Colorado Wild, Wilderness Workshop, Rocky Mountain Recreation Initiative, and Colorado Mountain Club on the proposed Aspen-Sopris Wildlife Habitat Improvement Project, as described in the Scoping Letter (SL) dated November 23, 2010 and the accompanying attachment (SLA).

I. INTRODUCTION. Generally, we commend the Forest Service (FS) for proposing a project of this nature and scope. The project would return fire to ecological types that likely saw it frequently under a natural disturbance regime but now rarely do because of fire suppression. The treatments would also improve or maintain some wildlife habitat, including big game winter range, the availability and quality of which is the limiting factor for these big game herds.

However, we do have some concerns, especially about operations inside roadless areas. These and other issues are discussed below.

II. REINTRODUCTION OF FIRE TO FIRE-DEPENDENT ECOSYSTEMS SHOULD BE A PURPOSE OF THIS PROJECT. With the benefit of natural fire regimes on wildlife and forest health, we support efforts of the FS to reintroduce fire into fire dependent ecosystems. We believe a project goal should be to reset fuel loads and allow fire to resume its role at natural intervals. The goal should not be to initiate a management cycle that will necessitate a permanent commitment to repeated and expensive treatments.

We understand, of course, that there are places within the forest where it is not safe to allow fire to burn, specifically areas close to people, homes, and critical infrastructure. In these places, it may be impossible to restore a natural fire regime, and active management may be an ongoing need. That said, the areas close to people, homes, and infrastructure that actually need ongoing treatment are relatively small. In fact, science suggests that a treated area of no more than 40 meters (132 feet) is needed to protect values at risk (life, property, infrastructure). See Cohen, 1999 and 2000.

For areas outside of this home ignition zone, the FS should revise fire management plans to allow natural ignitions and naturally occurring wildfire to run. The proposed project should be used as a one-time reset. Thereafter, fires should be allowed to burn in treated areas whenever possible. Ensuring that natural fire plays an ongoing role in ecosystem management on the WRNF will improve forest health and reduce management costs to taxpayers.

We understand that the agency's ability to allow fire in the ecosystem is in some measure a function of local community comfort and perception of safety. We urge the FS to undertake proactive educational campaigns to highlight the responsibility that local communities have for their own protection. Wilderness Workshop, for one, would be willing to partner with the FS on such an educational campaign or lend support in other appropriate ways. We also urge the agency, along with resetting the fuel loads, to focus on treating at the public/private interface immediately adjacent to areas with values at risk, thereby reducing opportunities for fire to travel between public and private lands - in either direction.

The FS should use fire as the predominant treatment tool. For reasons of economy and ecosystem health, fire is a better tool for treatment than mechanical implements. While we understand that fire has the potential to stir public concern, we think the advantages are clear. Extensive education and outreach on the benefits of reintroducing fire to this landscape will reduce public concern. Local forests evolved with fire. Suppression of natural fire is likely the single biggest reason this habitat improvement project is needed in the first place. Restoring fire to these lands will restore ecosystem health. Furthermore, mechanical treatments are substantially more expensive than prescribed fire, and can have some significantly adverse impacts. (See section III below.) In this era of huge federal deficits, it only makes sense to use the more economical tool—especially, as in this case, if that tool is more effective and a more efficient use of limited resources

III. ACTIVITIES IN ROADLESS AREAS MUST MAINTAIN ALL ROADLESS AREA CHARACTERISTICS. We note that about 24,000 acres of roadless area (RA) would be prescribed burned, and another 2000 acres in such areas would receive a combination of fire and mechanical treatment. SLA at 2. It is important that roadless area characteristics, listed in the 2001 Roadless Area Conservation Rule, be maintained with any kind of treatment.<sup>1</sup>

The SL at p. 2 states that control lines will be established “as needed to manage [fire] spread”. Intuitively, such lines might be more needed in roadless areas compared to roaded areas because most such areas have few roads, so there may not be many manmade features that could be used as control lines.

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<sup>1</sup> Roadless area characteristics include: (1) High quality or undisturbed soil, water, and air; (2) Sources of public drinking water; (3) Diversity of plant and animal communities; (4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land; (5) Primitive, semi-primitive non-motorized and semi-primitive motorized classes of dispersed recreation; (6) Reference landscapes; (7) Natural appearing landscapes with high scenic quality; (8) Traditional cultural properties and sacred sites; and (9) Other locally identified unique characteristics. See [66 Fed Reg 3244, 3272](#) (Jan. 12, 2001) (36 CFR 294 (2001)).

How would fire control lines be constructed in RAs? If heavy equipment such as bulldozers were used, soils could be damaged, which would degrade the roadless characteristics of “high quality or undisturbed soil...” and “natural appearing landscapes with high scenic quality”. 36 CFR 294.11 (2001). Such equipment could also create paths that invite motorized recreation and be vectors for invasive weeds, which would, in turn lead to further degradation of roadless character, including wildlife habitat this project is intended to improve.

How would mechanical equipment be used for treatments access RAs? We assume no new roads would be constructed, as roads are said to be unnecessary for the types of equipment expected to be used. SLA at 14. Also, such road construction would almost certainly violate the Roadless Rule. See 36 CFR 294.12 (2001). However the use of heavy equipment would in effect create roads, whether intended or not, because such machinery destroys vegetation in the areas it traverses, especially with repeated passes.

Because of the likelihood of degradation of roadless area characteristics with the use of mechanical equipment, we recommend no, or only minimal, use of this equipment in roadless areas. If any such equipment is used, all paths created must be fully obliterated and restored after completion of work.

The SLA states that there would be no tree cutting in RAs, but that shrubs up to six inches in diameter might be cut. A “shrub” with this diameter, such as Gamble oak, is really more of a tree and is likely an old growth one at that. Logging such vegetation would thus violate the limitations on logging in roadless unless the activity would

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.

36 CFR 294.13(b)(1)(ii) (2001).

Note that this is a higher standard than improving wildlife habitat and “promoting age class diversity, variable shrub height, density of sprouting, and species composition”. SLA at 3. If the Forest Service wishes to do any logging in roadless areas, it must show that it qualifies for an exception in the Roadless Rule. In other words, the agency should provide data describing how it believes the shrubland community containing these large diameter shrubs is outside the natural range of historic variability to the point where uncharacteristic fire is a risk, and how the proposed treatment would help reduce this risk and restore the community.

To minimize damage to soils, natural appearance, and non-target vegetation, we ask that larger diameter shrubs that are more like trees not be cut, except select vegetation that is cut by hand as part of preparation for burning. We further recommend that the FS justify cutting shrubs of such substantial size in any environmental impact statement or analysis.

IV. FOLLOW FIRE MANAGEMENT PLAN GUIDELINES AND ENSURE MINIMAL GROUND DISTURBANCE. WRNF Fire Management Plan guidelines mandate use of fire wherever feasible and appropriate to accomplish resource management goals and objectives. Fire Management Plan, at 4. The Plan also requires the agency to “minimize ground-disturbing activities associated with fire management activities.” Id. Given this guidance the FS should avoid use of impactful mechanized equipment except where absolutely necessary. Fire should be the preferred and primary tool to address the goals of this project.

V. SOME OF THE MECHANICAL TREATMENT IS UNNECESSARY AND UNDESIRABLE. Under the proposal, 4300 acres of land in two units would be treated via mechanical means only. SLA at 16. This would occur in subalpine forests (SLA at 8), which presumably means lodgepole pine, Englemann spruce, and subalpine fir, in addition to aspen. The stated reason for cutting is that “this vegetation has become stagnant, diseased or mature without good understory regeneration”. SLA at 8.

However, some subalpine forests are naturally dense with little understory, and their growth becomes slow after maturity. The fact that they are stagnant or mature is not a reason to cut them. Decadence, in fact, is a desirable character in subalpine and other forests because it allows creation of habitat (e. g., snags, down dead wood) for a whole guild of wildlife, i. e., cavity nesters, that are usually absent in younger forests. Logging would destroy this habitat or reduce the possibility of it ever developing in the treated areas.

The SLA states that after creation of small openings in conifer stands, “there would be some sprouting of grasses and flowering plants until conifer seedlings sprout as a result of increased light to the forest floor”. SLA at 8. However, once grasses and forbs are established, conifer trees usually are not able to sprout. Thus the proposed treatments might create permanent openings.

It would be inappropriate to treat these forests for the objective of improving wildlife habitat, as it would damage or destroy habitat for some wildlife species, even if it created or improved habitat for other species. Early successional habitat can easily be created by treatment, but later successional habitat can only be created over time when there are no stand replacing events, either natural or artificial. Thus it is important to conserve older successional habitat.

We recommend that this component be dropped from the project. If it needs to be pursued, it should be in a separate project. It does not fit with a project that concentrates on improving lower elevation habitat that may be in much more in need of treatment.

VI. QUESTIONS ABOUT ACHIEVING DESIRED VEGETATION. We have the following concerns about how the intended results of treatment might be achieved:

Treating mountain shrubs would “promote a more variable and open stand with a mixture of plant species” SLA at 3. But since these areas are partially dominated by gambel oak (id.), wouldn’t any treatment be likely to induce vigorous sprouting of oak, allowing further domination by this species and making the stand’s vegetation less variable?

How would non-target vegetation be avoided with prescribed fire? If an area containing a mix of shrubs is ignited, it would be difficult to avoid burning some of the non-target vegetation. For example, sagebrush would be retained in mountain shrub communities that are treated. SLA at 3. Prior to burning, would the area surrounding the sagebrush first be blacklined (i. e., pre-burned) so the fire would stop before it reached the sagebrush? Otherwise, how would it be avoided?

Why is sagebrush said to be non-target vegetation in the first place? Wouldn't sagebrush benefit from treatment just as the target shrub species would?

How would shrubs be top-killed by fire? See SLA at 10. Wouldn't fire burn in the understory vegetation and burn most or all of the shrubs by burning them from the bottom and killing whole plants?

Treatments should also be scheduled to avoid important life stages for resident wildlife, such as the nesting season for birds. This is especially important for any birds that nest on or in the ground. Areas proposed for treatment must be thoroughly surveyed prior to any manipulation so that nests and potential nesting areas can be avoided during the nesting season.

For mechanical/fire treatments, mechanical treatment would be used "on flat terrain or where sparse vegetation does not carry fire". SL at 2, SLA at 13. Why would treatment be needed in areas where there is sparse vegetation? Most such areas probably had fire only very rarely or not at all. Thus, we wonder why any treatment would be needed to restore the vegetation in such areas.

If spring burning is desired or acceptable, the use of whitelining, i. e., burning up to the snow line in spring, should be considered. This is one of the safest ways to burn ground vegetation, since the fire is almost guaranteed to stop once it reaches the snow.

VII. FS MUST DEFINE "HISTORIC CONDITIONS" AS A DESIRED OUTCOME In the Scoping Letter Attachment the FS states: "It is desirable to bring these communities back into their historic conditions restoring plant health, vigor, and regeneration." SLA, at 1. We are familiar with the term "historic range of variability." That term is scientifically defined, or at least has a generally accepted definition, and represents a defensible goal for restoration. However, we are unaware of any commonly agreed upon or independently meaningful definition for the term "historic conditions." Please explain what is meant by this term.

VIII. FUTURE MANAGEMENT OF TREATED AREAS SHOULD MINIMIZE NEED FOR FOLLOW-UP TREATMENTS. Desired conditions resulting from proposed treatments are only anticipated to last for a term certain.<sup>2</sup> After historic conditions are restored, future management should ensure that natural processes keep treated areas within that historic range of variability to

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<sup>2</sup> See for example SLA, at 3: "Desirable vegetation conditions should persist for 15-30 years after treatment. Additional treatments at 1 to 3 year intervals 2 or 3 times after the initial treatment can help remove dense shrub stimulated by fire."

the greatest extent practicable. Reliance on active management and human manipulation to keep areas within the historic range after treatment would mean that this project is simply the first action in an unending cycle of active management actions necessary to maintain desired conditions. That would be a very expensive and ecologically questionable permanent commitment.

If necessary, the FS should revise the WRNF Fire Management Plan to allow natural fires to run in treated areas. As said above, fire is the best tool economically and ecologically to maintain desired conditions on the forest. The FS should be looking for ways to maintain desired conditions without the necessity of long-term and expensive mechanical treatments.

**IX. PREVENT WEED INTRODUCTION AND SPREAD.** Since any kind of treatment creates an ideal environment for the introduction and spread of noxious weeds, it is critically important that weeds be located and eradicated prior to commencing any treatments. We strongly recommend that surveys also be conducted for a minimum of three full growing seasons after treatment is complete. Any weeds discovered during these surveys should also be eradicated.

All treatments should be designed and implemented to ensure the best chance of natural revegetation. Where planting is needed, the FS must use only genetically local native plant species for revegetation efforts, as well as seed mixtures and mulch that are free of noxious weeds. WRNF Fire Management Plan, at 3 (2010).

**X. PREPARE AN ENVIRONMENTAL IMPACT STATEMENT.** “Federal agencies must comply with certain procedures prior to taking any action or making any decision that could significantly affect the quality of the human environment.” Colorado Environmental Coalition v. Dombeck, 185 F.3d 1162, 1171 (10th Cir. 1999) (emphasis added). Specifically, agencies must prepare an environmental impact statements (EIS) where an agency’s proposal may significantly affect the environment.

CEQ regulations implementing NEPA define “significance” in terms of intensity and context. 40 C.F.R. § 1508.27. Intensity includes a number of factors, including: (1) “[i]mpacts that may be both beneficial and adverse.” (2) “[t]he degree to which the proposed action affects public health or safety.” (3) “[u]nique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, ... wetlands, wild and scenic rivers, or ecologically critical areas;” (4) “[t]he degree to which the effects on the quality of the human environment are likely to be highly controversial,” (5) “[t]he degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration,” and (6) “[w]hether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.” 40 C.F.R. § 1508.27(b)(1) – (7).

The sheer magnitude of this project, proposing treatment of 50,000 acres in four different watersheds, virtually guarantees significant impacts to wildlife and vegetation. Indeed, that is the point - to remedy years of fire suppression and ceaseless development of winter and transitional wildlife habitat. Other impacts to resources like air and water quality have the potential to be both significant and controversial. The agency must analyze and disclose potential positive and negative impacts to resources in an EIS.

The undersigned believe that a project of this size and that has about 26,000 acres of treatment proposed in roadless areas should be analyzed in an environmental impact statement (EIS). With the amount of proposed treatment in roadless areas and elsewhere, effects on at least the following resources could be significant: roadless area characteristics, wildlife habitat, soils, air quality, and scenery. The project may establish a precedent for future actions because continued treatments would be needed to maintain the desired vegetation conditions, and those actions could cumulatively have significant impacts.

XI. THOROUGH SITE-SPECIFIC ANALYSIS AS WELL AS PUBLIC NOTICE AND COMMENT MUST FOLLOW THIS PRELIMINARY ANALYSIS. The SLA confirms that implementation will require preliminary surveys of archeological and botanical features that may need protection. SLA at 16. Any site-specific surveys should be thorough, including not only archeological and botanical resources, but also the myriad of resident wildlife that may be impacted by implementation, as well as water and riparian resources. For example, the Fire Management Plan includes numerous guidelines for protection of physical and biological resources. *See* Fire Management Plan, at 4-5. These guidelines must be considered prior to implementation of any portion of the proposed action. Furthermore, the interested public should be notified and given an opportunity to comment prior to implementation of site-specific treatments.

XII. SUBSEQUENT NEPA WILL BE NECESSARY. Since implementation of this project is anticipated to take a decade (SLA, at 17), much of the site-specific implementation will require additional NEPA analysis in the form of an EA or EIS. As you know, NEPA analyses grow stale with time and this particular analysis is unlikely to be adequate for site-specific treatments implemented years from now. The Council on Environmental Quality, which interprets NEPA, states a general, rule-of thumb limit for NEPA document freshness of five years:

Q. Under what circumstances do old EISs have to be supplemented before taking action on a proposal.

A. As a rule of thumb, if the proposal has not yet been implemented, or if the EIS concerns an ongoing program, EISs that are more than 5 years old should be carefully reexamined to determine if the criteria in [40 CFR] 1502.9 compel preparation of an EIS supplement. ...

Questions and Answers About the NEPA Regulations, CEQ, 46 Fed Reg 18026, 18027, March 23, 1981.

## XII. ADDITIONAL COMMENTS AND QUESTIONS.

The scoping letter attachment lists 158 acres of a 3.1 Special Interest Area, Emphasis on Use and Interpretation to be treated. SLA, Table 1, at 2. Where is that Special Interest Area?

Why are certain Forest Plan management areas included within treatment units even though those management prescriptions do not allow for such treatment? *See* SLA, at 2. Would this require a Forest Plan amendment?

Any environmental analysis of this project should identify whether or not the WRNF Fire Management Plan allows natural ignitions to run in areas proposed for treatment. The FS should contemplate revising management direction for treated areas in order to let natural ignitions run in the future.

Any environmental analysis of this project should describe benefits and impacts to non-game species. The benefits of this project to deer, elk, and bighorn are clear. But the benefits and impacts to other species (e.g., raptors, lynx, neotropical migrants, small mammals, threatened and endangered plants) are not so clear. The analysis must also balance desired habitat improvements against impacts to existing and resident fish and wildlife species.

Enhance maps to the point where reviewers can identify which portions of “mixed treatment areas” are going to be treated mechanically (and by which mechanical method) or with prescribed fire. At the least, clearly explain why the agency needs to retain that “mixed treatment” category rather than breaking it out.

Which mechanical implements will be used in the various vegetation types?

**XIII. MONITORING.** It is very important that the condition of treated areas be monitored. This will make it possible to assess the results of treatment, make corrections, and adjust future treatments as needed. Items to be monitored should include: vegetation composition (especially including any presence of weeds), vegetation condition, soil erosion, water quality, wildlife use, and any human use of treated areas that could affect achievement of the desired conditions. Control sites containing similar vegetation that will not be treated should be selected prior to treatment so that the condition of treated areas can be compared with untreated areas.

Monitoring should be conducted for at least three years after treatment. The FS should involve various parties in the monitoring, or at least in the analysis of the results of monitoring. This could help build and maintain support for the treatments, especially the use of prescribed fire. In addition, multi-party monitoring is an important scoring criteria for Collaborative Forest Landscape Restoration Program money. Having a well considered and planned multi-party monitoring program will help this project qualify for a CFLRP grant.

CONCLUSION. In general, we support the project because it will return fire to the landscape in areas from which it may have been excluded for some time, and because it would help improve wildlife habitat. However, operations must be conducted to minimize impacts to resources, especially in roadless areas and for wildlife habitat throughout the project area. Some adjustments may also be needed to ensure that the desired results are achieved.

The treatments in subalpine forests should be deleted from the project. Weeds must be treated prior to operations commencing, and such treatments must continue after treatment. An EIS should be prepared.

Sincerely,

Rocky Smith  
Colorado Wild  
1030 Pearl #9  
Denver, CO 80203  
303 839-5900  
[rocky@coloadowild.org](mailto:rocky@coloadowild.org)

Peter Hart  
Wilderness Workshop  
PO Box 1442  
Carbondale, CO 81623  
(303)475-4915  
[peter@wildernessworkshop.org](mailto:peter@wildernessworkshop.org)

Roz McClellan  
Rocky Mountain Recreation Initiative  
1567 Twin Sisters Rd.  
Nederland, CO 80466  
303 447-9409  
[mcclelr@colorado.edu](mailto:mcclelr@colorado.edu)

Bryan Martin  
Colorado Mountain Club  
710 10<sup>th</sup> St.  
Golden, Co 80401  
303 996-2768  
[bryanmartin@cmc.org](mailto:bryanmartin@cmc.org)

## REFERENCES

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