



March 17, 2025

VIA USDA ONLINE PUBLIC COMMENT PORTAL

RE: Comments on the Forest Service's Northwest Forest Plan Amendment Draft Environmental Impact Statement #64745

To Whom It May Concern:

Thank you for the opportunity to comment on the Forest Service's Northwest Forest Plan Amendment Draft Environmental Impact Statement (Draft EIS or DEIS). These comments are submitted by the undersigned groups Earthjustice, American Bird Conservancy, Bark for Mt. Hood, Cascadia Wildlands, Center for Biological Diversity, Center for Sustainable Economy, Central/Eastern Oregon Bitterbrush Chapter of Great Old Broads for Wilderness, Central Oregon LandWatch, Environmental Protection Information Center, Friends of the Kalmiopsis, Klamath Forest Alliance, National Parks Conservation Association, Oregon Wild, Sierra Club, Soda Mountain Wilderness Council, Umpqua Natural Leadership Science Hub, Umpqua Watersheds, and Bonnie Felix, many of which will be submitting their own comments in addition to this letter.

These comments focus on the legal obligations and procedures that govern the Forest Service's proposed action and provide an overview of the legal shortcomings in the Draft EIS. The Forest Service must correct these deficiencies to ensure that any amendment is grounded in science and the law. As described in more detail below, the Forest Service must ensure that any proposed amendment:

- Builds on the Northwest Forest Plan's successes by preserving and advancing the ecosystem management principles underlying the original plan: protecting and restoring healthy and clean watersheds, protecting mature and old growth forests, and preserving resilient forests that support strong biodiversity, including northern spotted owls, marbled murrelets, and salmon for current and future generations;
- Responds to the twin climate and biodiversity crises impacting Northwest communities and forests;
- Honors Tribal sovereignty, complies with the Forest Service's treaty and trust responsibilities to Tribes, centers Indigenous Knowledge and co-stewardship in forest management and decision making, and adopts the Tribal inclusion components proposed in the Draft EIS;

- Complies with the National Forest Management Act (NFMA), the 2012 Planning Rule, the Administrative Procedure Act, the National Environmental Policy Act (NEPA), the Endangered Species Act, the Clean Water Act, the National Historic Preservation Act, the Wilderness Act, the Wild and Scenic Rivers Act, the Travel Management Rule, and the Roadless Area Conservation Rule (Roadless Rule).

## I. THE NORTHWEST FOREST PLAN AMENDMENT MUST PRESERVE AND ENHANCE THE NORTHWEST FOREST PLAN’S KEY PROTECTIONS.

The Northwest Forest Plan (the Plan) represents the first and only science-based ecosystem management plan in the nation. For 30 years, it has guided 17 national forests across 24.5 million acres to balance ecological, social, and economic objectives and to serve the Forest Service’s multiple-use mandate. The Plan has successfully improved water quality; protected forest ecosystems, riparian areas, and biodiversity; fostered informed decision making grounded in science; halted destructive logging practices; preserved mature and old growth forests that are resilient to climate change and store carbon; and protected salmon, northern spotted owls, marbled murrelets, and other imperiled species. The Forest Service should continue to protect these vital resources for current and future generations, including by ensuring that its management of Northwest national forests responds to the twin climate and biodiversity crises.

The Forest Service should carefully scrutinize and study its proposed amendment to ensure it preserves and enhances the Plan’s successes. As the Forest Service recognized in its Notice of Intent, the Plan benefits communities and protects Northwest forest ecosystems: “In many cases, the land management plans within the NWFP area are delivering effective, landscape-scale management, achieving positive community benefits and moving toward long-term desired ecological conditions by maintaining vegetation conditions that support [northern spotted owls] and marbled murrelets, protecting mature and old-growth forests, and retaining and improving habitat for aquatic and riparian-associated organisms.” U.S. Forest Service, Forest Plan Amendment for Planning and Management of Northwest Forests Within the Range of the Northern Spotted Owl, 88 Fed. Reg. 87393, 87394 (Dec. 18, 2023); *see also* DEIS Appx. C-4. The Forest Service must ensure that any amendment preserves these Plan benefits for current and future generations and rests on the best available science, including Indigenous Knowledge.

## II. THE FOREST SERVICE MUST CENTER TRIBES IN FOREST MANAGEMENT.

The Forest Service’s amendment must also correct the Forest Service’s failure to include and center Tribes in the original Plan. Tribes have managed and stewarded the lands within the Northwest Forest Plan area for a variety of cultural objectives since time immemorial. The Forest Service must ensure that Tribal sovereignty, Indigenous Knowledge, and Tribal voices are at the core of its amendment process and implementation. The Forest Service must adopt an amendment that complies with its treaty and trust responsibilities, respects Tribal sovereignty, supports co-stewardship, incorporates Indigenous Knowledge, reflects Tribal input, and adheres

to Forest Service consultation and Indigenous Knowledge policies.<sup>1</sup> DEIS ES-6, 3-8, 3-11. The Forest Service must also ensure that its implementation of any amendment reflects these principles. The Tribal Inclusion components considered in the Draft EIS represent a strong step forward, and the Forest Service should include all considered components in any final amendment.

### III. LEGAL DEFICIENCIES IN THE DRAFT EIS

The Forest Service must also ensure that any amendment adheres to NFMA and the 2012 Planning Rule, the Administrative Procedure Act, NEPA, the Endangered Species Act, the Clean Water Act, and other applicable laws and regulations. These laws serve the public interest and hold the Forest Service accountable by ensuring that the agency makes transparent, rational, science-based decisions that advance the Forest Service's multiple-use mandate and preserve the Northwest's forests, clean waters, salmon, and habitat for current and future generations.

As explained in more detail below, the Draft EIS:

- Conflicts with and ignores NFMA and the 2012 Planning Rule requirements;
- Violates the Administrative Procedure Act by failing to rationally explain major changes in policy, including the decision to significantly raise the age for mature and old growth protections by 40 years;
- Contravenes NEPA by failing to analyze a reasonable range of alternatives, account for changes to the baseline, and take a hard look at impacts from significant changes to forest management in the Plan area.

#### A. The Draft EIS Does Not Satisfy the Forest Service's NFMA and 2012 Planning Rule Obligations.

##### *1. Background and Legal Framework*

NFMA requires the Forest Service to responsibly manage our nation's forests to "meet the requirements of our people in perpetuity." *See, e.g.*, 16 U.S.C. §§ 1600(6); 1609. To achieve this direction, the Forest Service must utilize "a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and other sciences" and adopt "standards and guidelines" in the forest planning process that meet these objectives. 16 U.S.C. § 1604(b), (c). For both plan revisions and significant plan amendments, the Forest Service must advance multiple forest uses, including "outdoor recreation, range, timber, watershed, wildlife

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<sup>1</sup> U.S. Forest Serv., Strengthening Tribal Consultations and Nation-to-Nation Relationships: A USDA Forest Service Action Plan (Feb. 2023), [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd1179946.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1179946.pdf); Office of Science and Technology Policy and CEQ, Guidance for Federal Departments and Agencies on Indigenous Knowledge (Nov. 30, 2022), <https://bidenwhitehouse.archives.gov/wp-content/uploads/2022/12/OSTP-CEQ-IK-Guidance.pdf> (Attachments 01 and 02).

and fish, and wilderness.” *Id.* §1604(e), (f); *see also* 16 U.S.C. § 528. Such multiple-use management requires a plan that supports plant and animal diversity and prioritizes public participation and consultation. 16 U.S.C. § 1604(d), (g)(3)(B).

The 2012 Planning Rule echoes and builds on these principles. Forest management plans and amendments thereto must be ecologically sustainable, contribute to social and economic stability, and ensure people and communities will have “clean air and water; habitat for fish, wildlife, and plant communities; and opportunities for recreational, spiritual, educational, and cultural benefits.” 36 C.F.R. § 219.1(c). The Forest Service also must explain how the best available scientific information, including Indigenous Knowledge, supports its plan or amendment. *Id.* §§ 219.3; 219.4(a)(3).

## 2. *The Forest Service Must Comply with NFMA and the 2012 Planning Rule.*

The Forest Service must satisfy its obligations under NFMA and 2012 Planning Rule. NFMA and the 2012 Planning Rule establish different requirements for a full-scale plan revision, a significant amendment, and an amendment. At a bare minimum, the Forest Service must comply with the NFMA and the 2012 Planning Rule provision for significant amendments, which require more detailed environmental analysis, assurance that the Plan will continue to serve the Forest Service’s multiple use mandate, and robust public engagement. 16 U.S.C. § 1604(f)(4) (stating that significant amendments must comply with sections 1604(d), (e), (f)).

The Forest Service must also rationally explain how its significant revisions proposed in the Draft EIS do not rise to a full-scale plan revision. While NFMA allows amendments in any manner whatsoever, *id.* § 1604(f)(4), the Forest Service must ensure that it does not use the amendment process as a back door to a full-scale revision. As the Forest Service explained in the Draft EIS, a plan revision would be complex, exceed the Forest Service’s current capacity (even before recent drastic cuts in Forest Service staffing), and not reflect the stated purpose and need of the proposed action. DEIS 2-24. To the extent the Forest Service seeks to engage in a Northwest Forest Plan revision process, then it cannot do so based on the current record and existing process. The Forest Service has not complied with the procedural and substantive obligations for a revision under NFMA, *see* 16 U.S.C. § 1604, nor has the Forest Service satisfied all of its obligations for a plan revision under the 2012 Planning Rule, *see* 36 C.F.R. § 219.7.

Yet, the Draft EIS contains some proposals that appear to exceed the scope of its proposed amendment and stated purpose and need for this action. For example, while the Forest Service has made clear that it is not changing the boundaries of land use allocations that were foundational to the Northwest Forest Plan’s balancing of old growth forests and timber production, the Forest Service proposes to substantially change management within late successional reserves, adaptive management areas, and riparian reserves. This includes revising upward by 40 years the age of protection within late successional reserves and shifting the purpose of late successional reserves to include maintaining or restoring habitat for species that depend on younger stands. *See e.g.*, DEIS 2-16, 3-26, 3-28, 3-31. In addition, the Forest Service has indicated that changes to the survey and manage program are outside the scope of this

amendment process, DEIS 2-24, but Alternative D includes plan components that would alter survey and manage, *see* DEIS 2-21. In the Final EIS and Record of Decision, the Forest Service should ensure it remains within the bounds of the proposed amendment consistent with NFMA and the 2012 Planning Rule.

3. *The Forest Service Has Not Otherwise Satisfied its NFMA and 2012 Planning Rule Obligations.*

Even under the narrower amendment framework, the Forest Service's Draft EIS analysis and proposed plan components do not comply with NFMA and the 2012 Planning Rule. As noted above, both plan revisions and significant plan amendments must advance multiple forest uses, including "outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness." 16 U.S.C. § 1604(e), (f); *see also id.* § 528. Such multiple-use management requires an amendment or plan to support plant and animal diversity and prioritize public participation and consultation. *Id.* § 1604(d), (g)(3)(B). The Forest Service must also assure that a proposed plan or significant amendment provides for multiple use and sustained yield and determines appropriate forest management systems, harvesting levels, and procedures. *Id.* § 1604(e). Both NFMA and the 2012 Planning Rule specify that these key considerations must be advanced through meaningful standards and guidelines in plan components. The Forest Service also must support its decision with the best available scientific information, including Indigenous Knowledge. C.F.R. §§ 219.3; 219.4(a)(3).

The Forest Service's Draft EIS and proposed plan components do not meet these obligations. Specifically, the Forest Service has not satisfied the substantive 2012 Planning Rule provisions that the Forest Service identifies as applicable to this planning process by including meaningful standards and guidelines to address these provisions and explaining how they are supported by the best available scientific information. *See* DEIS 1-6–1-7. Indeed, the Forest Service merely listed these provisions and failed to explain how it satisfied them.

First, the Forest Service has not provided sufficient analysis or plan components to satisfy its obligation to provide both an ecosystem and species-specific approach to maintain animal and plant diversity. 36 C.F.R. § 219.9(a)(1), (2), (b); DEIS 1-6. Given Northwest Forest Plan's ecosystem framework, the Draft EIS is remarkably light on ecosystem management components for this amendment. The Draft EIS also fails to include meaningful species-specific components and largely defers species-specific considerations to the implementation level. The Northwest Forest Plan has long focused on protection of the northern spotted owl, marbled murrelets, and fish populations, and the Forest Service should continue to ensure that these species, and others, are protected through specific plan components in any amendment. The Forest Service also cannot rely on its unsupported assertion that an amendment will not have a substantial adverse impact on species or populations when it provides no explanation or support for that conclusion. DEIS 1-7.

Second, despite identifying it as a need for the amendment, the Forest Service has not fully accounted for climate change as a systemic driver of changes in Northwest forests. 36 C.F.R. § 219.10(a)(8); DEIS 1-6. Although the Forest Service seeks to address risks associated with

increased wildfire risk from climate change, the Forest Service does not provide sufficient plan components to address other climate-related harms, including warming waters, increased drought conditions, and adverse impacts to biodiversity and habitat. The Forest Service also does not provide sufficient protection for, and recruitment of, mature and old growth trees that provide essential carbon storage to reduce climate change impacts.

Third, the Forest Service has not included additional plan components that “maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area,” and account for the “[i]nterdependence of terrestrial and aquatic ecosystems in the plan area.” 36 C.F.R. § 219.8(a)(1), (i). The Plan’s Aquatic Conservation Strategy is foundational to the Plan’s success in protecting riparian areas, aquatic species, and the Northwest’s iconic salmon populations. In 1994, the Forest Service had the foresight to ensure protection for salmon populations, even before many of these populations were protected under the Endangered Species Act. The Forest Service should employ similar foresight in any amendment to protect aquatic areas and the fish and other species that depend on them for current and future generations.

However, the Forest Service has largely ignored analysis of potential adverse impacts to riparian areas, aquatic ecosystems, salmon habitat, and watersheds on the premise that it is not changing the Aquatic Conservation Strategy. But the proposed changes to the Plan threaten significant harms to aquatic areas by increasing timber production and associated road building and changing management in riparian reserves and late successional reserves. *See e.g.*, DEIS 3-26, 3-28, 3-31. Similarly, the Forest Service has not included plan components that adequately protect habitat conditions for fish, including threatened and endangered salmon, and other aquatic species in light of the proposed changes in this amendment. 36 C.F.R. § 219.10(a)(5).

As noted above, the Forest Service also has not incorporated plan components to protect northern spotted owls, marbled murrelets, and other terrestrial species in light of the proposed amendment changes.

Fourth, the Forest Service has not included plan components to promote economic stability related to recreation, ecosystem services, and climate change reflective of the proposed amendment changes. *Id.* § 219.8(b). The Forest Service’s myopic focus on timber production overlooks the importance of recreation to local economies and fundamentally fails to assess the costs of increased timber production on forest ecosystem services like clean water and fish habitat. The Forest Service also fails to account for the costs of climate change.

To the extent the Forest Service includes plan components to address the 2012 Planning Rule provisions that it identifies as applicable, many of those components lack sufficient accountability and guardrails to ensure that the components will in fact serve their purpose. For example, the Forest Service proposes guidelines, rather than standards, for treatments in moist late successional reserves under 120 years and management of moist matrix stands established between 1825 and 1905. *See* DEIS 2-5, A2-10.

The Forest Service also has not provided a rational explanation for why other 2012 Planning Rule provisions were not applicable to the amendment process. *See* DEIS 1-6–1-7. For example, the Forest Service did not provide a rational explanation for excluding as inapplicable provisions regarding species of conservation concern, soil quality, water quality, riparian areas, integrated resource management for multiple use, and limitations on timber harvest for protection of soil, watershed, fish, wildlife, recreation, and aesthetic resources. *See, e.g.*, 36 C.F.R. § 219.8(a)(2), (3); *id.* § 219.10(a); *id.* § 219.11(d).

B. The Forest Service Failed to Explain Its Shifts in Policy.

The Forest Service must also fully comply with its Administrative Procedure Act obligations to make rational decisions. For changes in policy, the Forest Service must show that it is aware it is changing its position, demonstrate the lawfulness of the new policy, believe it is a better policy, and provide good reasons for it, including through a reasoned explanation for disregarding facts and circumstances that supported the prior policy. *FCC v. Fox Television Stations, Inc.*, 566 U.S. 502 (2009); *Organized Vill. of Kake v. U.S. Dep’t of Agric.*, 795 F.3d 956, 966 (9th Cir. 2015). Under NFMA and the 2012 Planning Rule, such an explanation must also be grounded in the best available science. 36 C.F.R. § 219.3.

The Forest Service proposes several significant policy changes to the Northwest Forest Plan that in many respects are inconsistent with the original scientific basis for the Plan, including that developed by the Forest Ecosystem Management Assessment Team. Before finalizing those changes, or adopting any others, the Forest Service must explain the basis for the change and provide good reasons for it.

Most notably, the Forest Service has not adequately justified its proposal to significantly raise the age of tree protections in moist late successional reserve forests from 80 to 120 years under Alternatives B and D. Instead, the Forest Service offers a bare bones explanation that the change to 120 years is based on the passage of time since implementation of the original plan. DEIS 2-16. Even if the math added up, that explanation does not satisfy the Forest Service’s obligation to explain its change in position. Moreover, although the Forest Service states that its proposed plan directions are not intended to change the underlying definitions of late successional and old growth forests, the Forest Service admits that it is modifying the thresholds for management activities that can occur in these forests under both Alternatives B and D. DEIS 3-24–3-26; Table 3-2. Such modifications must be grounded in the best available science and be justified by good reasons. The Forest Service has not satisfied these obligations.

Similarly, the Forest Service has not adequately justified its changes to the management structure within late successional reserves, riparian reserves, and adaptive management areas within moist matrix areas. *See, e.g.*, DEIS 3-28 and Table 3-4. For example, the Forest Service has not rationally explained its proposal to restore habitat for species that depend on young forests in the late successional reserves, which were created to preserve mature and old growth forests and the species that depend on them. *See* DEIS ES-9, DEIS 3-77.

In addition, the Forest Service has not explained its proposal to shift its management in moist matrix areas to use a stagnate date in time for the definition of old growth forests (stands with an origin date before 1825) and mature forests (stands with an origin date between 1825 and 1905). See DEIS Appx. A1-19, F-4 (defining mature forest stands in moist forests). These provisions set up a highly confusing framework in which trees will age into protection in some land use allocations and never will in others. It also stagnates recruitment of mature and old growth forests in moist matrix areas because those trees will never age into protection.

Finally, the Forest Service has not rationally justified its decision to include certain changes to the survey and manage program in Alternative D when it has repeatedly noted that such changes are outside the scope of the purpose and need of this amendment process.

The Forest Service must provide sufficient and detailed explanation, scientific support, and a legal basis for these and any other policy changes, including any changes to the Forest Service's approach to environmental justice, climate change, public engagement, and Tribal inclusion, before finalizing any Amendment.

C. The Draft EIS Does Not Comply with NEPA.

I. *Legal Framework*

Congress passed NEPA to establish a national policy of environmental protection and to require the federal government to further specific environmental goals by "all practicable means, consistent with other essential considerations of national policy." 42 U.S.C. 4331(b). In passing NEPA, Congress emphasized that federal agencies must follow the statute "to the fullest extent possible." *Id.* § 4332. Consistent with this broad mandate, NEPA requires that federal agencies prepare a detailed EIS for any major federal action that may significantly affect the quality of the human environment. *Id.* An EIS must consider the reasonably foreseeable environmental effects of the proposed agency action, including any unavoidable reasonably foreseeable adverse impacts from the proposed action and the relationship between the short-term use of the environment and the "maintenance and enhancement of long-term productivity." *Id.* (C)(iv). Federal agencies must use reliable data and resources in the EIS and ensure the professional and scientific integrity of its analysis. *Id.* § 4332.

By focusing the agency's attention on the environmental consequences of its proposed action, NEPA "ensures that important effects will not be overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast." *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). Under NEPA's statutory requirements, agencies must take a "hard look" at environmental consequences of its actions. *Kleppe v. Sierra Club*, 427 U.S. 390, 410, n.21 (1976).



2. *The Draft EIS Does Not Consider a Reasonable Range of Alternatives.*

NEPA requires agencies to analyze a reasonable range of alternatives, including a no-action alternative, to the proposed agency action that are technically and economically feasible and meet the purpose and need of the proposal. 42 U.S.C. § 4332(2)(C)(iii).

Here, the Forest Service's proposed action alternatives do not reflect a reasonable range of alternatives because the Forest Service failed to consider at least one alternative that advanced and enhanced both Tribal sovereignty and inclusion in forest management and the ecological and climate benefits of the Plan. Many of the undersigned groups proposed such an alternative in their scoping comments.<sup>2</sup> Such an alternative is technically and economically feasible and directly in line with the purpose and need statement. Yet, the Forest Service's proposed action alternative designed for the strongest conservation benefit (Alternative C) does not include the strongest provisions for Tribal inclusion. Instead, the Forest Service paired the strongest Tribal inclusion measures with the alternative that has the least conservation benefit (Alternative D). *See* DEIS 2-9. At a minimum, the Forest Service should have considered an alternative that pairs the strongest Tribal inclusion components with the strongest conservation components or explained why it could not.

The Forest Service also failed to consider an alternative that better harmonized the potential competing objectives of climate change mitigation and adaption, such as an alternative that proposes significantly fewer acres for logging, prohibits commercial harvest of mature and old-growth forests, and/or applies different age threshold for management.<sup>3</sup> While the Forest Service explained that a moratorium on all tree harvesting in mature and old-growth forests was outside the purpose and need of the amendment, the Forest Service did not explain why it would be unreasonable to consider an alternative that achieved a better balance. DEIS 2-25.

3. *The No Action Alternative Is Not Transparent About How BLM's Withdrawal from the Plan Changes the Baseline.*

The Forest Service also did not explain whether or how the Bureau of Land Management's (BLM) 2016 withdrawal from the Northwest Forest Plan changes the baseline for its analysis of Alternative A as a comparison to other alternatives or how it otherwise affected the Forest

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<sup>2</sup> Comments of EPIC et al, Re: Notice of Intent for Northwest Forest Plan Amendment (Feb. 2, 2024) (asking the Forest Service to adopt an alternative that (1) increases involvement of Tribal governments over management decisions concerning their ancestral territory; (2) protects and expands the existing reserve network in both dry and moist forest ecosystems; (3) protects mature and old-growth trees in both reserves and matrix; (4) right-sizes timber production expectations; (5) includes management for in-forest carbon storage and sequestration; (6) adopts species of conservation concern; and (7) adopts beaver restoration as a goal of the plan. Such an alternative is technically and economically feasible and meets the purpose and need of the proposal).

<sup>3</sup> *See* Oregon Wild Scoping Comments Re: Northwest Forest Plan Amendment (Feb. 2, 2024).

Service's analysis. The original Northwest Forest Plan included 2.7 million acres of BLM-administered lands. DEIS 1-4. While the Forest Service clarified that the amendment would only apply to Forest Service lands, *id.*, it did not explain how BLM's withdrawal from the Northwest Forest Plan affects its analysis. In particular, the Forest Service did not explain whether or how BLM's withdrawal alters the assumptions underlying Alternative A, the no action alternative, which forms a baseline against which to compare the action alternatives. Nor did the Forest Service provide information about how the BLM's management after Plan withdrawal has impacted overall implementation and success of the Plan. BLM's management also provides valuable lessons learned about impacts to forest conditions, biodiversity, aquatic areas, and water quality from many of the changes that the Forest Service proposes to adopt here, which the Forest Service overlooks in its analysis. The Forest Service should provide a robust explanation of how BLM's withdrawal from the Northwest Forest Plan affects its analysis here.

4. *The Draft EIS Does Not Satisfy NEPA's Hard Look Mandate.*

The Forest Service's analysis in the Draft EIS fails to take a hard look at several impacts from the proposed Northwest Forest Plan Amendment.

First, the Forest Service failed to take a hard look at wildlife impacts, including species-specific impacts. Although the Draft EIS acknowledges that increased active management might adversely impact species, it does not analyze these adverse impacts. *See* DEIS 1-7, 3-34. Instead, the Forest Service baldly asserts that it does not "anticipate a substantial adverse impact to a species or population because of the proposed amendment," DEIS 1-7, and defers species-specific analysis to the site-specific level. Without any reasoned analysis or scientific support, the Forest Service's conclusion is impossible to reconcile with its proposal to significantly expand logging in late successional reserves and other forest habitats and its admission that logging in critical habitat areas is expected to increase in Alternatives B and D. DEIS 3-35. The Forest Service must do more to satisfy NEPA and make an informed decision. Without a biological assessment or species-specific analysis, the public has little information to understand the impacts of the Forest Service's proposed amendment.

Second, the Forest Service failed to take a hard look at the impacts of increased timber production on road development and roadless areas. The Forest Service excluded as not significant the impacts of road development from the proposed plan and deferred those considerations to the site-specific level. DEIS 1-12. This conclusion cannot be reconciled with the proposed increases in timber extraction from public lands, which is likely to require a significant web of roads across federal forest lands. The Forest Service also suggests that certain treatments in Inventoried Roadless Areas may occur under a limited exception to the Roadless Rule but does not explain how this limited exception would apply in different land use areas or analyze how such treatments might impact wildlife connectivity, critical habitat, aquatic areas, and water quality. DEIS 3-35. The Forest Service must ensure any amendment fully complies with the Roadless Rule and the Travel Management Rule. And it must fully analyze the impacts of potential road construction from increased timber production and add plan components that adequately protect against significant impacts from road development.

Third, the Forest Service failed to take a hard look at impacts on water quality, water resources, wetlands, and aquatic species because it is not changing the Aquatic Conservation Strategy. But that reasoning is inconsistent with the Forest Service's proposal to significantly increase road construction and allow logging and harvest in a wider range of areas. These impacts should be analyzed at the programmatic level and not deferred to the site-specific level where significant ecosystem level impacts may be overlooked. DEIS 1-12. The Forest Service also cannot both claim that such water quality and wetland issues are not relevant at the programmatic level when it also claims that its proposed action is likely to lead to watershed improvements. DEIS 3-10. The Forest Service also has no rational basis to assume that increased logging will not affect water quality, water resources, wetlands, and aquatic species or to ignore such potential impacts at the programmatic level, particularly when it acknowledges significant increases in riparian reserve logging under the proposed action. DEIS 3-26. At a minimum, the Forest Service must model or otherwise disclose the anticipated impacts associated with this increase in riparian reserve logging.

Fourth, the Forest Service failed to analyze impacts of increased timber production on vital carbon storage and climate change. NEPA calls on agencies to "fulfill the responsibilities of each generation as trustee of the environment for succeeding generations." 42 U.S.C. § 4331(b)(1). No issue invokes this intergenerational responsibility more than climate change, which is widely acknowledged as a critical environmental issue. The carbon storage provided by mature and old growth trees is a key tool in the fight against climate change. In fact, scientists have found that large trees store far more carbon than smaller trees, with one study of Northwest forests showing that large trees accounting for just 3% of the inventory stored 42% of aboveground carbon.<sup>4</sup> Yet, the Forest Service did not meaningfully analyze the carbon storage and climate impacts of its proposed action. Instead, the Forest Service provided a cursory explanation that fuels treatments "all involve a tradeoff between the emissions resulting from treatment activities, loss or conversion of carbon stored within the biomass that is removed, improved growth potential of remaining trees due decreased competition for resources, and the potential carbon saved from release by wildland fire associated with the decreased fire risk." DEIS 3-92. The Forest Service must do more to explain these purported tradeoffs, including by calculating the various carbon storage and climate benefits associated with each.

Fifth, the Forest Service does not meaningfully analyze environmental justice impacts. Environmental justice is a critical part of NEPA reviews and informed agency decision making. See 42 U.S.C. §§ 4321, 4331(a), (b)(2), (b)(4), (c). The Forest Service has emphasized its policy of supporting environmental justice in its decision making and actions through its white paper titled Environmental Justice in the USFS NEPA and Planning Processes and its 2016 strategic

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<sup>4</sup> See Mildrexler, D.J. et al. *Large Trees Dominate Carbon Storage in Forests East of the Cascade Crest in the United States Pacific Northwest*, *Frontiers in Forests and Global Change* (2020) 3: 594272, <https://doi.org/10.3389/ffgc.2020.594274> (Attachment 03).

plan. DEIS Appx. E-1.<sup>5</sup> Here, the Forest Service's analysis did not meaningfully assess impacts to communities with environmental justice concern, including air and water quality impacts. The Forest Service also did not assess how the proposed amendment will impact fair and sustainable working conditions for these communities.

Sixth, the Forest Service did not meaningfully analyze the socioeconomic impacts on recreation, fishing, water quality, and climate change. Recreation is one of the key economic drivers on federal forests and an important component of the 2012 Planning Rule. Forest Service lands are also critical for healthy salmon populations, intact watersheds, and climate resilience. Yet, the Forest Service focused primarily on economic impacts from increased timber production and failed to conduct a similar analysis regarding recreation, fishing, water quality, and climate change economic impacts associated with the action alternatives.

Seventh, the Forest Service did not meaningfully analyze cumulative effects. *See* 36 C.F.R. § 220.4(f). Although the Forest Service acknowledges that numerous lands administered by BLM are within the cumulative effects area, the Forest Service did not analyze its proposed changes against the impacts from BLM's 2016 decision to withdraw from the Plan and subsequent management of those areas. *See* DEIS 3-158, 3-162. The Forest Service also did not meaningfully analyze how changes in the Plan area will correspond with management on state and private lands, particularly as it relates to endangered and threatened species management under the Endangered Species Act. *See* DEIS 3-160–62.

Eighth, the Forest Service did not meaningfully assess the interplay between its actions and other federal agencies, state lands, and private landholders. In particular, the Forest Service did not explain how its proposed changes will impact state and private lands that currently depend on federal lands to support critical habitat for threatened and endangered species.

Ninth, the Forest Service analysis largely rests on the 2018 Synthesis of Science to Inform Land Management within the Northwest Forest Plan Area, the 2020 Bioregional Assessment of Northwest Forests, and the 2021 Supplemental Report to the Bioregional Assessment of Northwest Forests. *See* DEIS 1-5. Given that these studies are now several years old, the Forest Service should ensure that they reflect current and best available science before finalizing any amendment.

5. *The Forest Service's Deficient NEPA Analysis Places a Heavy Burden on Site-Specific Actions and Underlying Forest Plans.*

The Forest Service must analyze the reasonably foreseeable impacts of its proposed amendment in its programmatic EIS, and it cannot defer such analysis to the site-specific level. *See* 42 U.S.C. §§ 4332, 4336b.

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<sup>5</sup> *See also* U.S. Forest Serv., *Striving for Inclusion: Addressing Environmental Justice for Forest Service NEPA* (June 2014),

<https://www.resolutionmineeis.us/sites/default/files/references/grinspoon-et-al-2014.pdf> (Attachment 04).

Moreover, the Forest Service's limited analysis in the Draft EIS places a heavier burden on the environmental analysis required at the site-specific level. *See* 42 U.S.C. § 4336b. In particular, the Forest Service deferred several key issues, including road and water quality impacts, to the site-specific level. No implementation actions can occur without detailed analysis at the site-specific level that complies with NEPA. Further, the Forest Service must ensure that any site-specific implementation of any amendment adheres to the scientific and transparency requirements of NFMA, satisfies the Endangered Species Act, and complies with all applicable laws.

#### IV. THE FOREST SERVICE MUST ENSURE THAT IT COMPLIES WITH OTHER FEDERAL STATUTES.

In addition to NFMA, the Administrative Procedure Act, and NEPA, the Forest Service must comply with the Endangered Species Act, the Clean Water Act, the Wilderness Act, the Safe Drinking Water Act, the Wild and Scenic Rivers Act, the National Historic Preservation Act, and its trust and treaty obligations to Tribes. Full compliance with the Endangered Species Act will be particularly critical to ensure that the Forest Service's proposed amendment does not jeopardize northern spotted owls, marbled murrelets, listed salmon species, and other imperiled species or result in the destruction or adverse modification of designated critical habitat for threatened and endangered species.

The Forest Service must also ensure that it adheres to the Travel Management Rule and the Roadless Rule and ensures that any site-specific actions satisfy the underlying forest plans for each forest within the Northwest Forest Plan area. Where there is a conflict between the plan amendment and underlying forest plans, the Forest Service should follow the most restrictive measures.

#### V. THE FOREST SERVICE MUST ENSURE IT HAS SUFFICIENT STAFF AND FUNDING FOR LAWFUL FINALIZATION AND IMPLEMENTATION.

The Forest Service cannot lawfully finalize and implement an amendment without adequate staffing and funding. Lawful finalization of an amendment requires significant Forest Service personnel to comply with the Forest Service's obligations under NFMA, NEPA, the Administrative Procedure Act, the Endangered Species Act, and other laws. Among other things, NFMA requires that plan amendments or revisions be prepared by an interdisciplinary team, be based on inventories of the applicable resources of the forest, be grounded in science, have sufficient monitoring, and have a robust public process throughout plan development. 16 U.S.C. § 1604(b), (f)(4); 36 C.F.R. §§ 219.1, 219.12. The Forest Service must continue to ensure that it has sufficient funding and staffing for such an interdisciplinary team to finalize its proposed amendment.

The Forest Service also must ensure it has sufficient funding and staffing to lawfully implement any amendment, including any survey and monitoring components of the amendment. Even before the recent cuts to the Forest Service workforce, the agency struggled to accomplish its

ecosystem management and forest restoration goals given ongoing budget cuts and personnel limitations. Without sufficient staffing, the Forest Service's implementation of any amendment could imperil the Forest Service's intent to reduce fire danger, put our forests and communities at risk, and undermine Tribal inclusion in forest management.

Simply stated, the Forest Service cannot meet its legal obligations and serve our forests and communities without adequate funding for a robust teams of scientists, Tribal liaisons, firefighters, recreation specialists, administrative staff, engineers, technicians, and others who care for the land and are accountable to our communities and the American public.

VI. THE FOREST SERVICE MUST CLARIFY HOW, IF AT ALL, THE *IMMEDIATE EXPANSION OF AMERICAN TIMBER PRODUCTION* EXECUTIVE ORDER IMPACTS THE NORTHWEST FOREST PLAN AMENDMENT PROCESS.

On March 1, 2025, the Trump Administration issued an Executive Order directing immediate expansion of American timber production. This Executive Order does not and cannot change the Forest Service's obligations under any federal laws. The Forest Service must continue to meet its multiple-use mandate under NFMA and to comply with its statutory obligations for the forest planning process, including by providing for robust public participation. *See* 16 U.S.C. § 1604(d). The Forest Service also must continue to comply with NEPA, including its obligations to prepare a supplemental environmental review if its proposed action departs from its analysis in the Northwest Forest Plan Draft EIS. Further, the Forest Service must adhere to the Endangered Species Act, engage in transparent, rational decision making regarding the future of our public forests and the communities they serve, and satisfy its other legal obligations, *see supra* Parts II and III.

VII. CONCLUSION

Before making any final determination, the Forest Service must correct these legal deficiencies, comply with all other applicable laws and regulations, and ensure the integrity of its proposed amendment.

Sincerely,

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