

## Comments on the Draft Environmental Impact Statement for the Proposed Northwest Plan Amendment

March 17, 2025

### ***Via Electronic Filing***

ATTN: USDA Forest Service

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**RE:** Draft Environmental Impact Statement for Northwest Forest Plan Amendment, 89 Fed. Reg. 90280 (Nov. 15, 2024): Comments Submitted by State of Washington’s Attorney General’s Office

The Washington State Attorney General’s Office submits these comments on the Draft Environmental Impact Statement (DEIS),<sup>1</sup> pursuant to the National Environmental Policy Act (NEPA), 42 U.S.C. §§ 4321–4347 for the proposed Northwest Forest Plan Amendment, 89 Fed. Reg. 90280-01 (Nov. 15, 2024). The intent of the 1994 Northwest Forest Plan (Plan) is to provide management direction, standards, and guidelines to the U.S. Forest Service to conserve late-successional and old-growth forest ecosystems and dependent species such as the northern spotted owl, marbled murrelet, and other Endangered Species Act (ESA) 16 U.S.C. §§ 1531-1544, listed and non-listed species. To this end, the NWFP is critical in helping to protect and restore mature and old growth forests and dependent threatened and endangered species in Washington.

The NWFP Amendment process is governed by the National Forest Management Act of 1976 (NFMA), 16 U.S.C. § 1604, and the 2012 U.S. Department of Agriculture U.S. Forest Service Planning Rule (2012 Planning Rule), 36 C.F.R. § 219. Consistent with these governing laws, the Washington State Attorney General’s Office encourages the Forest Service to develop and adopt a preferred alternative in the Final Environmental Impact Statement (FEIS) that advances science-based restrictions to restore mature and old growth forests, maintains species-specific protections for threatened, endangered and other dependent species, and includes meaningful Tribal engagement, collaboration, and incorporation of Indigenous Knowledge in planning, project design, and implementation.

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<sup>1</sup> Northwest Forest Plan Amendment, Draft Environmental Impact Statement No. 20240208 (DEIS), Volumes 1 and 2 (Nov. 15, 2024), <https://cdxapps.epa.gov/cdx-enepa-II/public/action/eis/details?eisId=494511>.

Comments Re: DEIS

March 17, 2025

Page 2

- **The FEIS Should Advance Science-Based Restrictions to Restore Mature and Old Growth Forests**

The Plan establishes an ambitious 100-year timeline to restore the ecological integrity of mature and old growth forest and threatened and endangered species in the Plan area. The Plan is a science-based approach that, consistent with the 2012 Planning Rule, requires the maintenance and restoration of the ecological integrity of ecosystems.<sup>2</sup> As part of this approach, the Plan restricts management activities such as timber harvest and prioritizes ecosystem protections in moist late successional reserve stands over 80 years that are located west of the Cascades such as the Olympic, Mount Baker-Snoqualmie, and Gifford Pinchot National forests.<sup>3</sup> While these forests are only 30 years into this 100-year recovery timeline, the Plan has been important in helping to protect mature and old growth forests and restore forest health. Partially as a result, a 25-year monitoring report showed that areas of mature and old growth forests combined within federal lands in the Plan area have increased in abundance, diversity, and connectivity.<sup>4</sup>

The DEIS's Proposed Action Alternative B and Alternative D change the Plan's direction by lifting certain restrictions on active management and establishing new management thresholds for moist stands in late successional and old growth forests from 80 to 120 years and dry stands in late successional reserve and old growth forests from 80 to 150 years.<sup>5</sup> Significantly, this proposed change in Plan direction will effectively open up 824,000 additional acres of moist late successional reserves to active management including forest thinning and timber harvest.<sup>6</sup> The DEIS's stated purpose for this proposed change is to promote management activities and treatment to conserve and retain late successional and old growth reserves and preserve the ecological integrity of these systems.<sup>7</sup> Consistent with the 2012 Planning Rule, the DEIS should use the best available scientific information and document how this information was used to inform this change in Plan direction.<sup>8</sup> But the DEIS does not appear to provide a reasoned explanation for how these proposed specific management thresholds were established, whether they are based on the best scientific information, and how these specific thresholds will achieve the Plan's objectives.<sup>9</sup> Additionally, while this change in Plan direction substantially shifts discretion to the Forest Service to actively manage and administer treatments for moist stands in late successional reserves, the DEIS does not appear to require additional oversight or

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<sup>2</sup> 36 C.F.R. § 219.8(a)(1).

<sup>3</sup> DEIS 3-20.

<sup>4</sup> DEIS 3-23.

<sup>5</sup> DEIS 2-14; 3-25. The Proposed Action Alternative B also lifts restrictions and establishes new management thresholds for moist matrix lands in stands established between 1825 and 1905 (up to 200 years old) and dry matrix stands in tress established by 1850.

<sup>6</sup> DEIS 3-26. According to the DEIS "In young moist forest stands less than 120 years old in Late-Successional Reserves, forests management activities should be designed to improve and maintain late successional and old growth forest conditions that a) contribute to the recovery of federally listed species such as the northern spotted owl, marbled murrelet, and coastal marten; b) restore habitat for other species that depend upon younger stands, or c) achieve other desired conditions, such as fostering old-growth development and supporting tribal co-stewardship and cultural use."

<sup>7</sup> DEIS 3-24.

<sup>8</sup> §§ 219.3, 219.13(b)(5).

<sup>9</sup> DEIS 3-24-26.

Comments Re: DEIS

March 17, 2025

Page 3

monitoring to ensure compliance and objectives are met. Further, while the DEIS relies on studies that it states reflect an improved scientific understanding of the development of late successional and old-growth forest conditions and management,<sup>10</sup> it does not appear to fully consider and analyze all best available science, including studies that show that activities such as thinning, timber harvest, and prescribed burning could adversely impact ecosystem integrity and species recovery.<sup>11</sup> The FEIS should fully consider current best available science to develop an alternative that advances the best science-based restrictions for mature and old growth forests to restore the ecological integrity of these ecosystems.

- **The FEIS Should Take a Hard Look at Impacts to Threatened, Endangered and other Species Specific in the Plan Area and Maintain Species-Specific Protections**

The 2012 Planning Rule adopts a complementary ecosystem integrity and species-specific plan approach to contribute to the recovery of ESA federally listed threatened and endangered species such as the northern spotted owl in the Olympic Peninsula and Western Cascades and maintain species of conservation concern.<sup>12</sup> Under the Rule, when there is a proposal for a plan's amendment such as here, if "species of conservation concern have not been identified for the plan area and if scoping or NEPA effects analysis for the proposed amendment reveals substantial adverse impacts to a specific species, or if the proposed amendment would substantially lessen protections for a specific species," the responsible official must determine whether that species is a potential species of concern and whether the plan components are sufficient to provide the ecological conditions necessary to contribute to the recovery of threatened or endangered species, conserve proposed and candidate species, and maintain a viable population of each species of concern.<sup>13</sup> If the plan components are insufficient, then additional species-specific plan components, including standards or guidelines, must be included in the Plan to provide ecological conditions in the Plan area.<sup>14</sup> While the DEIS acknowledges the applicability of this Rule, it concludes that no further consideration under the Rule is warranted because "although individuals or populations of some species in the plan area may be adversely affected in the short term during individual project implementation," the proposed amendment "lacks either substantial adverse impacts to specific species or substantial reductions in species-specific protections."<sup>15</sup>

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<sup>10</sup> DEIS 3-26; Thomas A. Spies, Peter A. Stine, Rebecca Gravenmier, Jonathan W. Long, and Matthew J. Reilly, *Synthesis of Science to Inform Land Management Within the Northwest Forest Plan Area*, U.S. Department of Agriculture Forest Service, Pacific Northwest Research Station, Gen. Tech. Rep. PNW-GTR-966, Volume 1, 1020 p. 3 (2018), [https://www.fs.usda.gov/pnw/pubs/pnw\\_gtr966\\_vol1.pdf](https://www.fs.usda.gov/pnw/pubs/pnw_gtr966_vol1.pdf).

<sup>11</sup> §§ 219.3, 219.8(a)(1); See David Lindenmayer, Philip Zylstra, Chad T. Hanson, Diana Six, & Dominick A. DellaSala, *When Active Management of high conservation value forests may erode biodiversity and damage ecosystems*, Biological Conservation, Volume 305, 111071 (May 2025), <https://doi.org/10.1016/j.biocon.2025.111071>.

<sup>12</sup> § 219.9; DEIS 3-46.

<sup>13</sup> §§ 219.13(b)(6), 219.9(b)(1).

<sup>14</sup> § 219.9(b)(1).

<sup>15</sup> DEIS 1-7.

# ATTORNEY GENERAL OF WASHINGTON

Comments Re: DEIS

March 17, 2025

Page 4

The FEIS should fully consider and use the best available science and take a hard look at the adverse impacts of the proposed management activities on specific species in the Plan area.<sup>16</sup> The DEIS acknowledges that changes in Proposed Action Alternative B and Alternative D related to increased forest thinning, timber harvest, and other forest management activities in mid-to-late successional moist forests could result in short-term adverse impacts to threatened and endangered and other specific species and plants associated with closed canopy forests.<sup>17</sup> Additionally, the DEIS states that “fuel treatment objectives have the potential to increase short-term and long-term impacts to threatened and endangered species and designated critical habitat associated with these forests.”<sup>18</sup> But the DEIS concludes that it does “not anticipate a substantial adverse impact to species or populations because of the proposed amendment.”<sup>19</sup> However, the DEIS does not appear to fully document how the best available scientific information was used to inform this conclusion or whether the responsible official appropriately weighed conflicting science-based evidence that concludes the proposed management activities could lead to the degradation of the ecological integrity of critical habitat for threatened, endangered and other species.<sup>20</sup> The FEIS should use best available science and take a hard look at the potential adverse impacts resulting from these activities to specific species in the Plan area to determine whether they are substantial and warrant further consideration and the development of additional species-specific plan components under the Rule.<sup>21</sup>

Similarly, the FEIS should consider and take a hard look at the impacts of potential reductions to species-specific protections as proposed in Proposed Action Alternative B and Alternative D. The DEIS states that the conditions and guidelines under Alternative C “seek to set a higher level of northern spotted owl habitat protection” and likely other dependent species than Proposed Action Alternative B and Alternative D.<sup>22</sup> Despite this admission, the DEIS does not appear to fully consider or analyze the impacts of reduced protections on all specific species in the Plan area. The FEIS should fully analyze the impacts of potential reductions in species protections to adequately determine whether they are substantial and warrant further consideration and the development of additional species-specific plan components under the Rule.<sup>23</sup> Ultimately, the FEIS should develop and adopt an alternative that uses the best available science and maintains species-specific protections in accordance with the ESA and 2012 Planning Rule.

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<sup>16</sup> §§ 219.3, 219.13(b)(6), 219.9(b).

<sup>17</sup> DEIS 3-76-77; DEIS ES 8-9.

<sup>18</sup> DEIS 3-78.

<sup>19</sup> DEIS 3-77.

<sup>20</sup> § 219.3. See Dominick A. DellaSala, Rowan Baker, Doug Heiken, Chris A. Frissell, James R. Karr, S. Kim Nelson, Barry R. Noon, David Olson, & James Strittholt, *Building on Two Decades of Ecosystem Management and Biodiversity Conservation under the Northwest Forest Plan*, USA, *Forests*, 6, 3326-3352 (2015), <https://doi.org/10.3390/f7030053>; See also Dennis C. Odion; Chad T. Hanson; Dominick A. DellaSala; William L. Baker; Monica L. Bond. *Effects of Fire and Commercial Thinning on Future Habitat of the Northern Spotted Owl*, *The Open Ecology Journal*, 7, 37–51 (2014), <https://benthamopen.com/contents/pdf/TOECOLJ/TOECOLJ-7-1-37.pdf>.

<sup>21</sup> §§ 219.13(b)(6), 219.9(b).

<sup>22</sup> DEIS 3-79.

<sup>23</sup> §§ 219.13(b)(6), 219.9(b).

## ATTORNEY GENERAL OF WASHINGTON

Comments Re: DEIS

March 17, 2025

Page 5

- **The FEIS Should Adequately Evaluate the Impacts of Additional Timber Harvest and Road Expansion on Carbon Emissions and Resulting Climate Change**

The action alternatives proposed in the DEIS all include plan components that would strengthen the capacity of ecosystems to adapt to climate change.<sup>24</sup> While the DEIS examines how each of these alternatives will impact climate adaptation and forest storage and carbon sequestration, it fails to sufficiently analyze and compare carbon emissions from timber harvest and road expansion from these alternatives. For example, while the DEIS acknowledges that under the No Action Alternative the NWFP area would likely remain a carbon sink, it does not also account for the region's significant sequestration benefits<sup>25</sup> or foregone emissions.<sup>26</sup> Additionally, the DEIS provides an analysis of the action alternatives' impacts on climate adaptation and implications for carbon storage, but fails to analyze how management activities such as timber harvest and resulting road expansion would increase carbon emissions and climate adaptation overall.<sup>27</sup> Notably, the DEIS is deficient in failing to account for the carbon emissions resulting from the significant increases in timber harvest and road expansion contemplated under Proposed Action Alternative B and Alternative D. The FEIS should address this deficiency by taking a hard look at the impacts of timber harvest and road expansion on carbon emissions by conducting a carbon life cycle analysis that compares the relative impacts of these alternatives.

- **The FEIS Should include Meaningful Engagement with Tribes and Incorporate Indigenous Knowledge**

The action alternatives all address the need for the Forest Service to establish meaningful consultation and improve engagement with Tribes and incorporate Indigenous Knowledge in NWFP planning, project design, and implementation. The Washington State Attorney General's Office appreciates that all action alternatives include the stated objectives to improve Forest Service-Tribal relations consistent with Treaty and legal obligations, incorporate Indigenous Knowledge while maintaining Tribal sovereignty, improve Forest Service management practices through collaboration with Tribes, and increase access to cultural places, gathering and co-stewardship agreements. The FEIS should center Tribes in meaningful tribal engagement and collaboration and incorporate Indigenous Knowledge to help to protect and restore mature and old growth forests and dependent species.

In developing the FEIS, the Forest Service should fully consider best available science and evaluate how the proposed change in the Plan's direction will impact mature and old growth forests and dependent threatened, endangered species, and other species specific to the Plan area. The FEIS should ultimately develop and adopt a preferred alternative that advances science-based protections to restore mature and old growth forests, maintains species-specific

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<sup>24</sup> DEIS ES-10.

<sup>25</sup> See Olga N. Krankina, Mark E. Harmon, Frank Schneckenger, and Carlos Sierra, *Carbon balance on federal forest lands of Western Oregon and Washington: The impact of the Northwest Forest Plan*. Forest Ecology and Management, 266, 171-182 (2012), <https://tinyurl.com/4r4vjdp>.

<sup>26</sup> DEIS 3-90-91.

<sup>27</sup> DEIS 3-93.

ATTORNEY GENERAL OF WASHINGTON

Comments Re: DEIS  
March 17, 2025  
Page 6

protections, and includes meaningful Tribal engagement, collaboration, and incorporation of Indigenous Knowledge.

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