

April 2, 2025

USDA Forest Service
Acting Regional Forester
Pacific Southwest Region
1323 Club Drive
Vallejo, CA 94592

Project Name: Rattail Project
Responsible Official: Forest Supervisor Ted McArther
Six Rivers National Forest



RE: Objection to the Rattail Project

Dear Acting Regional Forester (Reviewing Officer),

This objection to the Rattail Project is submitted pursuant to 36 C.F.R. 218, Subpart A and B. The draft decision and Final Environmental Assessment (EA) are in violation of the National Environmental Policy Act (NEPA) and the Forest Service NEPA Implementing Regulations at 36 C.F.R. 220. This objection is connected to issues and comments previously submitted by Kimberly Baker, lead objector, at the Klamath Forest Alliance and Environmental Protection Information Center (EPIC) and Larry Glass with the Northcoast Environmental Center and S.A.F.E. Both the comments and this objection raise issues regarding the lack of alternatives and sufficiency of the analysis in the EA.

Scope of this Objection

The EA completed for this project is insufficient as it does not: provide a reasonable range of alternatives that could have also met the purpose and need of the project; take a hard look that NEPA requires and; is not consistent with the National Forest Management Act. Agencies are required to take a “hard look” at the environmental consequences of their action as mandated by NEPA. In determining whether the project has a significant impact on the environment, this hard look applies to the all predicted and reasonably foreseeable impacts, even when those impacts may only be understood qualitatively rather than quantitatively. 42 U.S.C. 4332(2)(C).



Objection Point #1: The EA Fails to Analyze Reasonable Alternatives.

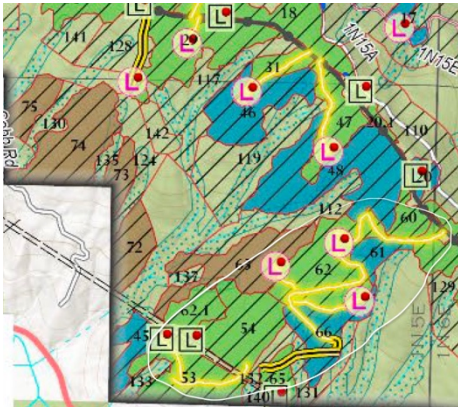
NEPA and the Forest Service implementing regulations require the Forest Service to provide sufficient evidence and analysis of the impacts of a proposed action and any alternatives that meet the purpose and need of the project. 42 U.S.C. 4332, 4336; 36 CFR 220.7(b)(2), 220.7(b)(3). NEPA requires all federal agencies to complete this analysis to the fullest extent possible which sets a rigid, high standard for agencies. 42 U.S.C. 4332; *Calvert Cliffs' Coordinating Committee, Inc. v. U. S. Atomic Energy Commission* 449 F.2d 1109, 1114-1115 (1971). The discussion of alternatives need not be exhaustive as long as the statement presents sufficient information for a reasoned choice of alternatives. *Robinson v. Knebel*, 550 F.2d 422, 426 (1977). The extent of detail required in the analysis is “necessarily related to the complexity of environmental problems involved.” *Id.*

NEPA requires agencies to “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources[.]” 42 U.S.C. § 4332(2)(E). While an agency’s obligation to discuss alternatives in an EA is a lesser one than under an EIS, the agency still must “give full and meaningful consideration to all reasonable alternatives” in an EA, and the existence of a viable but unexamined alternative renders an EA inadequate.” *W. Watersheds Proj. v. Abbey*, 719 F.3d 1035, 1050 (9th Cir. 2013); *see also Bob Marshall All. v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988) (“consideration of alternatives is critical to the goals of NEPA even where a proposed action does not trigger the EIS process.”).

Here, the Forest Service evaluated an “all or nothing” approach: (1) the “no action” alternative and; (2) the “proposed action”—the agency’s predetermined method... Such a narrow and limited alternatives analysis failed to “foster informed decision-making and informed public participation”—the “touchstone” of the 9th Circuit court’s review of challenges under NEPA. *California vs. Block*, 690 F.2d at 767(9th Cir. 1982).

Under 9th Circuit precedents, an agency need not consider every conceivable alternative, but it must consider an appropriate range. *See Headwaters, Inc. v. U.S. BLM*, 914 F.2d 1174, 1181 (9th Cir. 1990); *see also Env'tl. Def. Ctr. v. Bureau of Ocean Energy Mgmt. (“EDC”)*, 36 F.4th 850, 877 (9th Cir. 2022) (agencies “do not have to consider infinite, unfeasible, or impractical alternatives, but they must consider reasonable ones”). A reasonable range of alternatives is dictated by the “nature and scope of the proposed action,” and is one “sufficient to permit a reasoned choice.” *Idaho Conserv. League v. Mumma*, 956 F.2d 1508, 1520 (9th Cir. 1992). Furthermore, the adequacy of the agency’s alternatives analysis must be viewed in light of the purpose of the alternatives’ requirement: “[c]onsideration of reasonable alternatives is necessary to ensure that the agency has before it and takes into account all possible approaches to, and potential environmental impacts of, a particular project.” *N. Alaska Env’t Ctr. v. Kempthorne*, 457 F.3d at 978 (9th Cir. 2006).

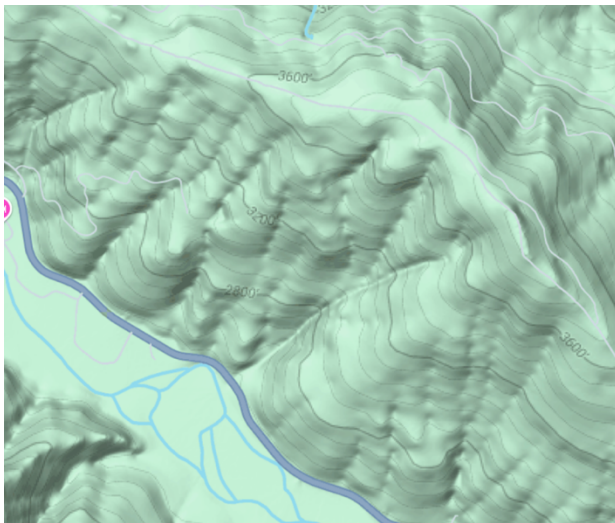
We raised a host of reasonable alternatives, and for the sake of this objection primarily focus on reducing the scope and/or intensity of building “temporary” roads and landings in the Eel River Late Successional Reserve.



The EA, Draft Decision and Response to Comments, did not provide detail as to why limiting the segment, of nearly 2 miles of road and three new landing construction sites, starting in Unit 60 (circled in white in image to the left) was not analyzed.

The Response to Comments states, “Helicopter logging is not a viable economic or safe option for the majority of the units. Helicopter logging would require the closure of state highway 36 and poses significant threat to the power lines. Additionally, helicopter landings are much bigger and therefore may entail more disturbance than the temp roads and smaller landings associated with this project. The forest would remain dense and overstocked if the MRRD were to choose this option due to the lack of treatment feasibility.”

Despite being a main factor of concern and reasoning, the EA and supporting documents do not provide any discussion on economics. How much will this significant and extreme road building and landing construction cost, with all the cut and fill needed to allow 18-wheeler access on these *steep* slopes? How much will sub-soiling and ripping (as the EA and Draft Decision Notice assure and relevant effects analysis are based on this occurring) this segment of road cost?



The EA and supporting documents do not explain why the adjacent helicopter logging units that are included do not fall under these same assumptions. There is simply no reasoning or explanation provided. If helicopter logging is not a safe or economically viable option, why is it included in the project? The complexity of this project demands a more detailed reasoning for the decisions made within the EA.

We argue that the amount of disturbance of enlarging two existing landings, as stated on page 23-24 of the Final EA, is vastly less disturbance than using heavy equipment and bulldozers with an undisclosed amount of cut and fill on nearly two miles of roads, between 15 and 25 feet wide, and at least three new landings on previously undisturbed *steep* slopes in the Eel River Late Successional Reserve.

Suggested Remedy #1:

Diminish the level of road and landing construction on this slope. This could include expanding helicopter systems. Or supplement the EA with: a detailed economic cost analysis and comparison; safety and disturbance comparisons and; provide an explanation of why certain units were excluded from helicopter logging but others were not.

Objection Point #2: The EA Fails Meet NEPA “Hard Look” Requirement.

While NEPA does not demand particular outcomes, its process is designed to influence substantive decision making, and, therefore, requires careful environmental review **before** decisions are made. Here, however, the Forest Service preemptively decided on a particular course of action and circumscribed its NEPA analysis to fit those ends. Such an approach was particularly problematic and it violates NEPA.

A “hard look” requires consideration of all foreseeable direct, indirect, and cumulative impacts, *Idaho Sporting Cong. v. Rittenhouse*, 305 F.3d 957, 963 (9th Cir. 2002), and “should involve a discussion of adverse impacts that does not improperly minimize negative side effects.” *League of Wilderness Def. v. U.S. Forest Serv.*, 689 F.3d 1060, 1075 (9th Cir. 2012). Rather than take a “hard look” at site-specific impacts, the Forest Service provided an inherently false, coarse-scale analysis or little to no data or site-specific details.

For instance, the cumulative effects analysis for roads and power line corridors on habitat connectivity and forest fragmentation, at page 54 of the Final EA states that, “There are 19 temporary (temp) roads proposed to be constructed, totaling 3.41 miles. No temp roads would be constructed within late successional stands, but only in stands less than 100 years old. Roads would be located on upper 1/3 slopes, primarily on ridges or near ridges, and would not cross riparian areas. Roads would be located to minimize the cutting of larger trees, generally greater than 30 inches DBH.”

The project analysis fails to take a hard look at all the impacts to this ecologically sensitive area. The landscape contains many trees over 100 years old. The “temporary” roads, particularly the one at issue, would remove an undisclosed amount of mid-late seral and old growth trees and it is not located on the upper 1/3 of slope. Further, multiple “temp” roads are proposed in Nesting and Roosting habitat and many more would cross or enter riparian areas.

There is also a lack of site-specific information in specialists’ reports. For instance, when looking at the current (prior to treatment) Erosion Hazard Rating (EHR) the report notes that slopes over 50% rank high. There are comments related to cable-yarding units. When describing the effects of the proposed action it states, at page 12, “Assuming a minimum residual soil cover of greater than 50% in all proposed activity units, the EHR is raised to high only where slopes exceed 45-50%. Therefore, all tractor-operated units (being on slopes less than 35-40%) are acceptable with greater than 50% soil cover post-activity.” However, it appears from elevation maps and location of units, that ground based logging and roadbuilding in some locations are on slopes over 35-40%.

The Final EA glosses over the fact, as stated in multiple of the fuel modeling scenarios provided with the project, “The fire models predict reduced fire behavior **immediately following treatment**. Fuels **will** recover over time and **eventually resemble the untreated scenario** if fire or fuel treatments are not repeated per the historic fire return interval.” (Emphasis added). Here, there is no assurance that maintenance would occur at all. As stated in the Final EA page 33, “A typical fire return interval or fuel maintenance cycle is every 10 – 15 years in mixed conifer and oak woodlands.”

Since the primary purpose and need for the project center around forest resilience to wildfire, the EA should provide a hard look at the long-term effectiveness of the proposed treatments and provide more than one static moment in time. Further, it is unclear exactly what was included in fire modeling and how it affected the outcome. Fire modeling reports state that the modeling shows “what will happen if existing dense understory fuels (TU5) are reduced to low understory fuel loads (TU1)...”. But the Final EA states on page 29 that, “...more than 40% of pre-existing shrub or canopy cover would be left. Does that mean that the fire modeling was extreme and not reflective of the proposed action? Regardless, given the purpose and need of the project, fire and fuels modeling deserve a closer look and the public and decision maker should be provided with more information.

The Forest Service consistently falls back on **project design features** to minimize impacts. But the 9th Circuit Court has expressly rejected such an act-first-mitigate-later approach. *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d at 1084–85 (9th Cir. 2011) (NEPA requires a determination of the “projected extent of the environmental harm to enumerated resources before a project is approved”); *Or. Nat. Desert Ass’n v. Jewell*, 840 F.3d 570-71 (9th Cir. 2016) (mitigation measures “are not a panacea for inadequate data collection and analysis”).

For instance, from the Soil Report page 13, “Conversely, “temporary” landings (and roads) are not dedicated to other uses than growing vegetation, so SQS do apply; these harvest system features would be heavily compacted throughout and would require post-use mitigation to reduce compaction and restore hydrologic function. Refer to soil and temporary road PDFs for descriptions of these restorative treatments.” And at page 14, “but as already stated “temporary” landings and roads may require mitigation measures to restore soil hydrologic function and soil quality as growing space for vegetation.”

From the Project Design Features provided in the Final EA, it is clear that the impacts from road building have not adequately been analyzed, as no project specific information has been shared. For instance:

Temporary road development that is located in RRs (including potentially unstable landforms) would be re-constructed in a way that adequately addresses water quality concerns....

If temporary roads are constructed on sideslopes greater than 30%, they shall have proper compaction of roadbed and fillslopes to maintain slope stability.

Minimize tree felling, yarding, mobile landings, and burning operations on both temporary and system roads with potentially unstable and erosive cut- and fillslopes. If impacted, repairs should be made.

Where are temporary roads proposed in Riparian Reserves? How many crossings are proposed? Where, how many and what length of “temp” roads are proposed on slopes over 30%? How much cut and fill would be required? How many and where are potentially unstable and erosive cut and fill slopes for “temp” roads? Project Design Features should only be proposed after fully

understanding the extent of harm and should be used as supplementary measures to minimize impacts, not as a substitute for a comprehensive analysis of environmental consequences.

There is no discussion of other project impacts in the Rattail Final EA, let alone analysis of combined effects; without any supporting analysis, as is required by 36 CFR 220.4(f). This is precisely the sort of “[g]eneral statements about ‘possible’ effects and ‘some risk’” the 9th Circuit Court has found deficient. *Neighbors of Cuddy Mtn. v. U.S. Forest Serv.*, 137 F.3d at 1380, (9th Cir. 1998); see also *Klamath-Siskiyou Wildlands Ctr. v. BLM* 387 F.3d at 997 (9th Cir. 2004) (EAs did “not sufficiently identify or discuss the incremental impact expected from each successive timber sale, or how those individual impacts might combine or synergistically interact with each other[.]”).

As the 9th Circuit Court has made clear:

An EA’s analysis of **cumulative impacts** must give a sufficiently detailed catalogue of past, present, and future projects, and provide adequate analysis about how these projects, and differences between the projects, are thought to have impacted the environment. * * * Some quantified or detailed information is required. Without such information, neither the courts nor the public can be assured that the agency provided the hard look that it is required to provide.

Te-Moak Tribe of W. Shoshone of Nev. 608 F.3d at 603 (9th Cir. 2010); see also *Kern v. U.S. BLM*, 284 F.3d at 1075 (9th Cir. 2002) (EA’s cumulative effects analysis must be more than “perfunctory”).

The Final EA-Page 23-24 states, “Though helicopter units are delineated within the project footprint, their associated landings will not be further analyzed until the *Bucktail Project*, as this project and its connected actions are not certain to occur. Generally, helicopter logging operations use landing sizes of approximately 1 acre. In this area, only existing landings would be used and enlarged for helicopter logging purposes (2 potential sites could be enlarged by 0.5 or 0.75 acre), though this enlargement would be analyzed at a later date, if ever analyzed at all.”

The Hydrology Report at page 3 states, “It is likely that an additional timber sale (Bucktail) will occur in the Mill Creek-Van Duzen watershed before Rattail is completed, although at this time there is no signed decision and project details are insufficient for inclusion in the CWE model. When project details are known, a separate CWE analysis will be performed for Bucktail, and this analysis will include Rattail.”

From the Soil Report at page 15, “A similar fuel reduction thinning project is being planned (Bucktail) within this vicinity. That project would likely have similar soil effects to the Rattail project (temporary road development, reduce fuels through thinning and fuels treatments. That project’s design features would be like this project, including minimizing impacts to soil erosion and minimizing other detrimental effects like compaction.”

Multiple resources reference the Bucktail project, yet the only information provided is that the project is roughly 2,000 acres of fuels reduction and thinning and is directly south. Analysis for

the Rattail project were not complete and were apparently kicked down the road to some later date, so the cumulative impacts were erased, not considered or not accounted for. There are dozens of questions left unanswered. These omissions, the reliance on PDFs and the lack of site-specific detail fail to adequately assess the level of significance and the NEPA hard look standard.

Suggested Remedy #2: Diminish project impacts by reducing “temporary” roads and landings. Provide clear maps, data on topography and slopes, and detailed analysis of how each aspect of the project could impact soil stability, water quality, and habitats. Provide more detailed cumulative impacts analysis on how the Bucktail and Rattail projects together could impact soil stability, water quality, and wildlife habitat.

Objection Point #3: The Rattail EA violates Six Rivers Land Resource Management Plan.

Soil Erosion and Mass Movement Standards and Guidelines at page IV-71, requires that “Tractors will be limited to slopes of 35% or less in order to minimize soil disturbance and subsequent erosion.” There appear to be multiple pitches exceeding 35%, particularly on the southern portion where nearly 2 miles of roads and 3 new landings are proposed. This violates the Six Rivers LRMP.

Suggested Remedy #3: Diminish project impacts by eliminating “temporary” roads, ground-based logging units, skid trails and landings on any slope over 35%.

Thank you for your consideration. We look forward to meeting with you.

Sincerely,



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A handwritten signature in black ink, appearing to read "Larry Glass", with a long horizontal flourish extending to the right.

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