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Portland Eugene Bend Enterprise

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TO:

- NW Oregon, BLM, via <https://eplanning.blm.gov/eplanning-ui/project/2037811/570/8021125/comment>
- Mt Hood National Forest, via <https://cara.fs2c.usda.gov/Public/CommentInput?Project=67700>

SUBJECT: Consent for Geothermal Leasing, Mt Hood National Forest — scoping comments

Please accept the following scoping comments from Oregon Wild concerning the Consent for Geothermal Leasing of a portion of the Mt Hood National Forest, <https://eplanning.blm.gov/eplanning-ui/project/2037811/510>, <https://www.fs.usda.gov/ro6/mthood/projects/67700>. Oregon Wild represents 20,000 members and supporters who share our mission to protect and restore Oregon's wildlands, wildlife, and water as an enduring legacy. Our goal is to protect areas that remain intact while striving to restore areas that have been degraded. This can be accomplished by moving over-represented ecosystem elements (such as logged and roaded areas) toward characteristics that are currently under-represented (such as roadless areas and complex old forest).

This Forest Service proposal is responding to a request from the Bureau of Land Management (BLM) to grant consent to lease two nominated parcels of National Forest System lands totaling over 10,000 acres for potential geothermal exploration and development. This project evaluates the surface suitability of the nominated parcels, but does not make the decision to grant leases or authorize ground-disturbing activities.

Foreseeable Development Scenario is Incomplete/Misleading

The Reasonably Foreseeable Development (RFD) Scenario for Geothermal Lease generally describes four phases of development:

1. Exploration: site clearing, drilling, roads;
2. Drilling: more drilling, flow testing, chemistry evaluation, sumps/pits, minor infrastructure;
3. Utilization, more roads, drill site development, well-field equipment, pipelines, power plant, transmission lines; and
4. Reclamation: plugging and capping wells, remove infrastructure, regrade drill sites, and roads, and revegetation.

This RFD is a bit vague to form the basis for a meaningful NEPA analysis. The NEPA analysis should describe and disclose a maximum development scenario, so that adverse effects and

trade-offs are not under estimated. For instance, the RFD says “Transmission line construction could disturb a swath up to 100 feet wide during construction but once complete, only a 20 foot width would be required for maintenance.” This is misleading. The analysis of effects of roads and powerlines must disclose not just the immediate footprint or vegetation clearing and ground disturbance, but must also describe the indirect effects and edge effects, such as:

- the need to clear hazard trees and loss of dead wood habitat up to a distance equal to the height of a site-potential tree, or sometimes more,
- the establishment and spread of weeds,
- the common use of roads as fuel breaks, which increases most of the effects listed,
- extra light and resources along roads that stimulate the growth of hazardous fuels,
- microclimate moderation that dries out the forest, affecting fuels, fire behavior, and wildlife;
- habitat fragmentation,
- the appropriation of water for geothermal energy production, etc.

National Energy Policy and Global Climate Change

Decisions on significant energy projects must be preceded by the development of a sound *national energy policy*. Oregon Wild recognizes the paramount need to avoid and mitigate global warming. We support the transition from fossil energy to renewable energy, but we insist that it be done in a thoughtful way. Lacking a coherent energy policy, the nation's current approach appears to simultaneously promote growth in fossil fuels and renewables. The current incoherent policy framework will not address global warming and will increase the cumulative ecological impacts from renewable energy development, plus the already significant adverse impacts of fossil fuel use, including global warming.

The goal must be to *couple* the development of renewable energy with absolute reductions in fossil energy use, so that GHG emissions are reduced in absolute terms, and so that the cumulative ecological footprint of the energy sector does not continue to increase. There are reasons to doubt our ability to transition away from fossil fuels, which raises questions whether renewable energy development is really a solution or just adds to the problems caused by our overall energy systems. See Jean-Baptiste Fressoz 2024. *More and More and More: An All-Consuming History of Energy*. Penguin Books.

<https://www.penguin.co.uk/books/464145/more-and-more-and-more-by-fressoz-jean-baptiste/9780241718896>.

The advent of social media, blockchain technology, and large language models for artificial intelligence all add significantly to the demand for electricity, and make it that much more challenging to decarbonize our energy systems. New research now shows that alternative energy development is NOT displacing fossil fuels use, which raises a very serious question whether we should accept new impacts from alternative energy while policy-makers refuse to address the urgent need to curtail fossil energy use. See York, R. Do alternative energy sources displace fossil fuels?. *Nature Clim Change* 2, 441–443 (2012). <https://doi.org/10.1038/nclimate1451> (“A fundamental, generally implicit, assumption of the Intergovernmental Panel on Climate Change reports and many energy analysts is that each unit of energy supplied by non-fossil-fuel sources takes the place of a unit of energy supplied by fossil fuel sources. However ... the average pattern across most nations of the world over the past fifty years is one where each unit of total national energy use from nonfossil-fuel sources displaced less than one-quarter of a unit of fossil-fuel

energy use and, focusing specifically on electricity, each unit of electricity generated by non-fossil-fuel sources displaced less than one-tenth of a unit of fossil-fuel-generated electricity. These results challenge conventional thinking in that they indicate that suppressing the use of fossil fuel will require changes other than simply technical ones such as expanding non-fossil-fuel energy production. ... One implication of these results is that direct suppression of fossil-fuel use (for example, by a carbon tax) is likely to be much more effective at reducing fossil-fuel use than simply expanding non-fossil-fuel energy sources. It is possible that non-fossil energy sources could more substantially displace fossil energy sources if they were deployed in a context where there were explicit policies aimed at reducing carbon emissions, such as in California where there is a goal of dramatically reducing carbon emissions over the coming decades. The most effective strategy for curbing carbon emissions is likely to be one that aims to not only develop non-fossil energy sources, but also to find ways to alter political and economic contexts so that fossil-fuel energy is more easily displaced and to curtail the growth in energy consumption as much as possible.”)

Public lands conservation advocates have developed some policy requirements that should precede large scale development of public lands for energy. These include:

- maximize gains from energy conservation;
- use already-disturbed lands for large energy projects;
- use available urban spaces that are suited to energy development such as rooftops;

See: <https://www.desertadvocate.org/ecologically-friendly-energy>. Even geothermal can be located on brownfields (especially if we invest in the development of deep geothermal drilling technology).

University of California Berkeley scholar Ozzie Zehner says, to avoid this problem where increasing energy supply leads to more energy demand -

... there are five necessary prerequisites that have to be followed: 1. Low per-capita energy consumption; 2. An energy tax scheduled to increase over time; 3. A binding long-term plan to improve building and equipment efficiency; 4. Legislation that prioritizes walkable and bikeable neighborhoods over car culture; and 5. Universal healthcare and a strong human rights record. [Of these prerequisites] “The United States meets none,” noted Zehner. “In fact, in countries such as the United States, with dismal efficiency, sprawling suburbs, a growing population, and high rates of material consumption, renewable energy technologies do the most harm as they perpetuate energy-intensive modes of living.”

Inhabitat website - Sustainable Design Innovation. 2012 Controversial New Book Claims Renewable Energy Does Not Offset Fossil Fuel Use. <http://inhabitat.com/controversial-new-book-claims-renewable-energy-does-not-offset-fossil-fuel-use/>.

Protect Special Places and Resources

It is imperative for this project to protect special places and special resources on our public lands including but not limited to:

- the Pacific Crest Trail and other recreation trails,
- the Olallie Lakes Scenic Area and other scenic areas,
- The Clackamas Wild and Scenic River and other rivers and streams and wetlands,
- Riparian Reserves and Late Successional Reserves and Key Watersheds designated under the Northwest Forest Plan,
- Critical habitat for threatened & endangered species,
- Backcountry, key riparian, scenic viewshed, and special interest land allocations,

- Limited water supplies,
- Mature and old-growth forests,
- Habitat for threatened & endangered species.

We are not convinced that geothermal development can be harmonized with these other conservation goals, even with stipulations. Impacts may be direct or indirect, so even though these special places may not have ground disturbing impact, there can still be adverse impact from indirect effects.

We recommend that the Forest Service and BLM NOT lease parcel OR-070802 because of critical habitat for spotted owl and the high percentage of older forest present. Ninety-five percent of parcel OROR-70802 contains designated northern spotted owl critical habitat, and one of the proposed stipulations states: “There should be no surface occupancy in designated or proposed critical habitat for species listed under the Endangered Species Act.” This renders parcel OR-70802 impractical for geothermal development.

Geothermal projects require large amounts of water for drilling, power generation, dust control, fire management, etc. The Mt Hood National Forest has federal reserved water rights to all the water in the project area to meet the purposes of the National Forest, and to fulfill the goals of the LMRP and all its land allocations. The Aquatic Conservation Strategy of the Northwest Forest Plan calls for natural stream flows, enough to stabilize low flows during summer, as well as peak flows that maintain stream channel functions, so there may not be water available for appropriation to support geothermal projects in this area.

Wildfire Concerns

Among our greatest concerns is fire. Geothermal development will increase the risk of fire ignitions, because roads and transmission lines significantly increase the risk of fire ignitions.

In addition, geothermal development will make it more difficult to manage fire and restore its natural role in the ecosystem. The above ground geothermal infrastructure will have to be protected from wildfire which will complicate fire management and fire suppression. It will be more difficult to allow fire to play its natural role in the ecosystem. Fuels will have to be highly modified in the vicinity of all above ground infrastructure, including transmission lines, which will add the cost fuels management on the Mt Hood National Forest and significantly degrade habitat values in a variety of ways, such as: loss of mature and old-growth habitat, increase fragmentation of habitat, increase risk of wildlife mortality from predators and collisions, soil degradation/erosion/water pollution, increase of weeds, etc. This is a remote area of public lands that should be a high priority for reintroducing fire and allowing fire to fulfill its natural role and provide ecosystem services including fuel management, carbon management, habitat diversity and complexity, dead wood recruitment, watershed health, mature and old-growth forest maintenance, etc.

The lack of existing transmission lines is a significant problem, except in the extreme southeast portion of the lease area, and there may not be capacity available on that transmission line. This means that construction of significant new transmission lines will likely be required, involving

habitat loss, fragmentation, erosion, water pollution, weeds, fire ignition hazard, fuel maintenance costs, etc.

Special Status Species

The NEPA analysis needs to rigorously address special status species including: threatened & endangered species, survey and manage species, management indicator species, migratory birds, and essential fish habitat.

Document Compliance with Substantive Requirements

The analysis must document compliance with substantive requirements in the National Forest Management Act, the standards & guidelines for all the affected land allocations of the Mt Hood LRMP as amended by the Northwest Forest Plan, the Clean Water Act, Clean Air Act, Endangered Species Act, Migratory Bird Treaty Act, etc.

All site-specific activities must comply with the governing forest plan. National Forest Management Act, 16 U.S.C. § 1604(i) (governing FS management of national forest lands); Federal Land Policy & Management Act, 43 U.S.C. § 1732(a) & 43 C.F.R. § 1610.5-3(a) (governing BLM lands).

NEPA requires disclosure of information necessary to determine compliance with legal requirements such as the Endangered Species Act, Clean Water Act, National Forest Management Act, and applicable Forest Plan Standards & Guidelines. See 40 CFR 1508.27(b)(10) and NW Indian Cemetery Protective Association v. Peterson, 795 F.2d 688 (9th Cir. 1986). In this G-O Road case, the NEPA document described water quality changes resulting from a road project in terms of 7-day average changes, whereas the applicable WQ standard was defined by daily peak changes. The court found this to be a NEPA violation.

The USDA Office of General Counsel agrees that project level analysis must document “Project Compliance With Other Laws.”

In addition to consistency with the LRMP each project must be in compliance with NEPA, CWA, CAA and other laws. Simply being consistent with the LRMP does not fulfill the site-specific requirements of Federal law. Project level analysis is to “determine findings for NFMA, to ensure compliance with NEPA, and to meet other appropriate laws and regulations.” Forest Service Land and Resource Management Planning, FSM 1920 and Forest Service Handbook 1909.12, 5.31. 53 Fed. Reg. 26807, 26836 (July 15, 1988).

OGC, “Forest Plan and Project Level Decisionmaking— Overview of Forest Planning and Project Level Decisionmaking,”

<http://web.archive.org/web/20030111060230/http://www.fs.fed.us/forum/nepa/decisionm/p4.html>

<http://web.archive.org/web/20060829000705/http://www.fs.fed.us/emc/nfma/includes/overview.pdf>

The CEQ NEPA regulations also require an analysis of legal requirements in order to determine whether an action may cause significant impacts on the environment. 40 CFR §1508.27(b)(10) (“*Significantly*, as used in NEPA, requires considerations of both context and intensity: ... The following should be considered in evaluating intensity: ... Whether the action threatens a

violation of Federal, State, or local law or requirements imposed for the protection of the environment.” *Emphasis added.*) The NEPA documents must make a showing of compliance with substantive legal requirement in order to support a valid Finding of No Significant Impact. SAS v. Mosely 798 F.Supp. 1473 (W.D. Wash. May 1992) (“The FEIS has thus mentioned what appears to be a major consequence of the plan jeopardy to other species that live in the old growth forests without explaining the magnitude of the risk or attempting to justify a potential abandonment of conservation duties imposed by law. An EIS devoid of this information does not meet the requirements of NEPA.” *Emphasis added.*)

See also, Judge King's October 2003 Decision in ONRC Action v. U.S. Forest Service, CV. 03-613-KI (“The underlying EAs for the timber sales at issue did not properly frame the Forest Service’s survey and manage duties, they did not analyze a range of alternatives based upon these duties, they did not evaluate completed surveys, they did not demonstrate that the Forest Service had all of the proper information before it before allowing logging, and they did not provide for public influence over the decisions. For all of these reasons, the underlying EAs are legally deficient.” *Emphasis added.*)

<http://web.archive.org/web/20041105214752/http://www.onrc.org/press/ONRCv.USFS.pdf>

And also Judge Hogan’s ruling in Klamath Siskiyou Wildlands Center v. Boody (D. Or. #03-3124-CO. May 18, 2004) where he held “plaintiffs have raised a serious question as to whether BLM violated NEPA in failing to disclose sufficient information in the EA to confirm compliance with ... the RMP.” (Order at page 18). <https://casetext.com/case/klamath-siskiyou-wildlands-center-v-boody-2>.

Geothermal Programmatic EIS is Inadequate

This decision tiers to the Geothermal PEIS which is more than 15 years old and does not provide specific analysis of effects on the Mt Hood National Forest, so this NEPA process must take a hard look at all the potential significant effects of geothermal leasing on the Mt Hood National Forest, to the extent they are knowable at this stage. Any future specific geothermal development proposal will require another NEPA process that is even more rigorous and site specific.

The Programmatic EIS for Geothermal Leasing may be stale and the agencies need to re-evaluate that document for currency, accuracy, relevancy, and any potential new information. NEPA Section 108 says:

When an agency prepares a programmatic environmental document for which judicial review was available, the agency may rely on the analysis included in the programmatic environmental document in a subsequent environmental document for related actions as follows:

(1) Within 5 years and without additional review of the analysis in the programmatic environmental document, unless there are substantial new circumstances or information about the significance of adverse effects that bear on the analysis.

(2) After 5 years, so long as the agency reevaluates the analysis in the programmatic environmental document and any underlying assumption to ensure reliance on the analysis remains valid.

42 U.S.C. §4336b.

Oregon Wild submitted detailed comments on the Geothermal PEIS on September 18, 2008, and raised several concerns that need to be addressed in this analysis, and bring into question the agencies' ability to rely on that analysis, including:

Climate Change

We recognize the threat that climate change poses to earth systems, natural systems and human systems, and we share a strong desire to develop energy sources with smaller carbon footprints. Geothermal might be part of a comprehensive plan to avoid and mitigate climate change, but we have not seen the national policy commitment necessary to make a real difference. We are not too enthused about sacrificing public lands in order to develop geothermal energy if it will only reduce the rate of growth in demand for energy under a business-as-usual scenario. It would be much better if geothermal was helping to reduce absolute demand for energy and reducing dependence on fossil energy sources under a strong energy policy that emphasizes conservation and renewable energy.

The EIS underestimates impacts.

The EIS estimates that road access will impact 32 acres or less. Most of the proposed facilities in Oregon are likely to be in extremely remote areas, requiring extensive road construction. Furthermore, road impacts are not limited to the roadway itself. Roads have extensive edge effects, hydrologic effects, weed effects, and wildlife disturbance effects that radiate far beyond the road prism.

The EIS described old growth forests in the "affected environment" section but fails to adequately disclose the impacts of geothermal development on these resource in the "environmental consequences" section. The EIS seems to rely on the Northwest Forest Plan standards & guidelines for Late Successional Reserves (LSRs) to mitigate for the effects of leasing on the LSRs in the Mt Hood and Willamette NFs, but the EIS does not actually put the rubber to the road and apply the standards & guidelines to the specific geothermal proposals. One of the purposes of NEPA is to explain how proposed federal actions will comply with environmental standards, but this was not done.

The EIS assumes that the National Forest roadless rule will be followed (no new roads in IRAs) but the EIS fails to disclose the adverse consequences if the Bush administration and their pro-extraction allies succeed in their ill-advised legal challenges to the National Forest roadless rule.

The EIS also assumes that old growth forests will continue to be protected under the Northwest Forest Plan, but the EIS fails to recognize that the BLM itself has proposed the Western Oregon Plan Revision (WOPR) which would severely undermine the overall scheme of the Northwest Forest Plan and the protection it affords to old growth forests and LSRs. Even if the WOPR does not propose to directly change the rules for managing LSRs on the National Forests, the WOPR still undermines the efficacy of the Northwest Forest Plan on the National Forests and its ability to conserve a functional and inter-connected old growth ecosystem as intended. The FS relies on BLM to do its part and maintain old growth habitat along critical connective areas between the different mountain ranges.

The EIS completely misunderstands the Western Oregon Plan Revision. The EIS says, “The Bureau of Land Management is currently revising the Salem RMP to align it with the Northwest Forest Plan.” The WOPR is NOT about alignment. It’s about BLM disengaging from the Northwest Forest Plan. See ONRC’s scoping comments on the WOPR. http://www.oregonheritageforests.org/resources/BLM_WOPR_ONRC.doc

Page 4-67 of the EIS says that most sensitive and high quality old growth habitat is off-limits to geothermal development because it is located in ACECs, wilderness, and roadless areas. This is false, false, and false. First, BLM has completely abdicated its responsibility to identify extensive high-quality old growth forests as ACECs. See Oregon Wild’s recent proposal for an extensive network of old growth ACECs which was rejected by BLM

http://www.oregonheritageforests.org/resources/WOPR_Indyla_ACEC.doc

Second, wilderness areas generally were established in high-elevation areas with mostly rock and ice and small trees, not in the low-elevation areas with large old growth favored by both the timber industry and endangered species. Third, after decades of dispersed clearcutting and road building, the few remaining inventoried roadless areas are too small to provide functional old-growth ecosystem. Most of the remaining old-growth is either in Late Successional Reserves, riparian reserves, or matrix and are not off limits under this geothermal proposal, though they should be and we urge the government to take the steps necessary to protect the last remaining old growth forests.

The EIS indicates that some mature & old-growth forest that provides suitable habitat for the Northern Spotted Owl would be destroyed in pursuit of geothermal resources on the Mt Hood and Willamette National Forests. The EIS falsely assumes that the NWFP functions as a recovery plan for the owl (EIS p 16-33) and fails to recognize the requirements of the final recovery plan for the Northern Spotted Owl (especially recovery action #32) which requires among other things that substantially all of the high quality spotted owl habitat be protected. See USFWS. 2008 Final Recovery Plan for the Northern Spotted Owl.

<http://www.fws.gov/pacific/ecoservices/endangered/recovery/NSORecoveryplanning.htm>

The use of groundwater during geothermal development will alter springs and surface water with significant impacts on aquatic organisms such as fish, aquatic insects, herptiles, and mollusks.

The analysis of leases in Oregon is inadequate.

Chapters 15 and 16 in the EIS are like mini-EISs within the PEIS. The NEPA analysis of proposed site-specific leases in the Mt Hood National Forest and the Willamette National Forest are inadequate to support an informed decision whether to approve or reject those applications. The EIS does not adequately describe the location of the ground-disturbing activities, the conditions at those sites, all the sensitive ecological resources at those sites, and the site-specific ecological impacts at those sites. The reasonably foreseeable development scenario is merely a hypothetical, so the location and effects of development activities are hypothetical. Actual effects may vary. Actual effects of a

poorly located geothermal energy project could be worse than described under the reasonably foreseeable development scenario. Further NEPA analysis will be needed to compare different concrete development proposals and make an informed decision based in the real world.

We are concerned about combining the programmatic EIS and lease-specific EISs. In promoting this as a Programmatic EIS, many people may not be aware of the local project-specific nature of the proposals for the Willamette and Mt Hood National Forest. If these projects are approved and developed many people are going to be surprised.

The proposed leases near Mount Hood have the following problems that should be avoided or mitigated:

- Small piece in an IRA (Bluegrass Ridge addition to Mt Hood Wilderness, FS supports as Wilderness)
- Includes lands to be designated as Wilderness by the Lewis and Clark Mount Hood Wilderness bill.
- Includes lands that are in the drinking watershed of Hood River
- Includes lands that are in the drinking watershed of the city of The Dalles
- Overlaps the Wild and Scenic East Fork Hood River (part of Lewis and Clark Hood bill).
- Overlaps Late Successional Reserve.
- Likely other concerns as well.

The proposed leases on the Willamette National Forest have the following problems that should be avoided or mitigated:

- Overlaps the Mt Jefferson North IRA
- Overlaps Mount Bruno unroaded area
- It's entirely within an LSR.
- Likely other concerns as well.

The EIS does not adequately analyze the effect of geothermal development on the 9 Aquatic Conservation Strategy objectives set forth in the Northwest Forest Plan.

The EIS does not adequately describe how geothermal development will affect the attainment of objectives for Late Successional Reserves which are to protect and enhance late successional forest conditions (NWFP ROD p C-9, C-11,). Generally, removal of trees >80 years old is not allowed in LSRs (NWFP ROD p C-12). Activities other than silviculture in LSRs must be “neutral or beneficial” to late successional habitat. (ROD p C-16). “Developments” in LSRs must be planned so as to have the “least possible adverse impacts” on LSRs. The potential benefits of new roads in LSRs must exceed the costs of habitat impairment (C-16). Project “locations” must be chosen to “avoid” degradation of habitat (p C-17). Removing late successional forests to make way to geothermal development does not seem consistent with those objectives. The EIS also failed to consider the “management assessments” for the affected LSRs.

EIS at pages 15-32 and 15-33 is contradictory. It says that old-growth is both protected by the Northwest Forest Plan and would be removed.

The analysis of recreation impacts ignores all recreation occurring outside of officially designated recreation areas. In fact, the Mt Hood NF is located near a large population center (Portland/Vancouver) and virtually the entire forest is used for recreation at various times and intensities. Given the large nearby population center the Mt Hood NF is considered to be crowded. Remote areas where visitors can find solitude are even more rare and valuable.

The supposedly site-specific analysis in Chapters 15 and 16 frequently refers to the generic description of effects on the programmatic EIS. The site-specific EIS needs to describe the effects of specific actions at specific locations not generically.

The EIS does not disclose the effects of energy transmission corridors. Page 16-9 says that “The length and alignment of transmission lines are not estimated here since these factors would depend upon the positioning of any power plant and the distance to the nearest electrical tie-in.” This is not adequate to support a supposedly site-specific NEPA analysis.

In describing lease areas on the Willamette NF, the EIS (p 16-13) says “land use is primarily limited to forestry and recreational use.” This ignores other important uses such as clean drinking water for the city of Salem Oregon, wildlife habitat, carbon storage, soil stability, nutrient cycling. The EIS needs to think in terms of *ecosystem services*, not just traditional human uses that occur *in situ*.

Future NEPA analysis

The DPEIS says,

“it is the intent of the BLM that, upon receipt of future nominations or applications for direct use, affected BLM offices would be able to conduct a DNA evaluation to make lease sale decisions without further plan amendments or NEPA analysis “

But this is contradicted by the following:

“The PEIS does not evaluate site-specific issues associated with geothermal exploration, drilling, utilization, or reclamation and abandonment. A variety of location-specific factors (e.g., soil type, watershed, habitat, vegetation, viewshed, public sentiment, the presence of threatened and endangered species, and the presence of cultural resources) varies considerably from site to site, especially over the 12-state project area.”

We feel strongly that this programmatic NEPA analysis must be followed by rigorous site-specific NEPA analysis and that DNAs will not be enough. Given the variation in location-specific factors across the region and the fact that we don’t know what location

any given geothermal facility will occupy, or the route that new access roads and transmission lines might follow, specific environmental effects of geothermal development cannot be captured in a programmatic EIS.

Impacts on native ecosystems are not fully recognized.

The Draft EIS says “Reclamation is done on areas that are no longer needed for these activities, so the actual area of disturbance for an operating power plant is generally much less.” This ignores the consequences of exploration or other “temporary” impacts that may affect old growth forests or other ecosystems in ways that are essentially irreversible. The EIS seems to assume falsely that all impacts are reversible, but they are not. Spreading weeds is essentially an irreversible effect. Page 4-67 of the EIS recognizes that removal of old growth forests is an irreversible impact, but the EIS falsely assumes that most of the high quality old growth is off limits to development. The analysis must be redone to acknowledge the real long-term impact of effectively irreversible development activities. Building roads for exploration or other purposes is another example of an essentially irreversible impact.

Consultation and Coordination with Indigenous Communities

We hope that this project can respect the cultural and environmental interests of native people, especially related to cultural use of native plants & wildlife, and cultural practices, such as seasonal burning, and gathering food and craft supplies. We hope there are opportunities for sharing and using traditional ecological knowledge (TEK) and we hope native people be involved in both planning and implementation of this project, where appropriate.

We strongly support greater coordination and engagement between the federal land management agencies and tribal governments and tribal members. We also feel the agencies need ensure the general public is informed and understands the importance of this coordination, and that it is happening. The general public is not always well informed about treaty rights or the importance of agencies like the Forest Service consulting and engaging with tribes on land management decisions, and failure to adequately inform the public can lead to unnecessary conflict. We urge that tribal consultation and application of TEK be done within a transparent NEPA framework, so that the general public can also be informed and involved in management of public lands.

We encourage the federal land management agencies to work toward a meaningful harmonization of tribal interests and the interests of the public. Oregon Wild strongly supports tribal involvement in public land management, and the protection and restoration of fisheries, wildlife, native plants, wetlands, and clean water needed to sustain tribal treaty rights and interests. We also want to ensure continued public notice and public involvement, and fulfillment of conservation goals reflected in the L/RMPs, and other policies. We hope the agency can identify the significant overlap among these diverse interests and manage accordingly.

Follow NEPA. It's still the law.

While NEPA law may be in flux due to a few radical court decisions and Trump era executive orders, there is still a lot of valid NEPA law that must be followed, including but not limited to:

1. NEPA is a statute, codified at [42 USC §§ 4321-4347](#), as amended by the Clean Air Act ([42 U.S.C. 7609](#)), and the [2023 Fiscal Responsibility Act](#) (FRA),

2. Extensive NEPA case law interpreting the statute, much of which occurred before the 1978 CEQ regulations were approved, but continuing after the CEQ regulations, for instance, when courts rendered decisions founded on statutory language and interpretation, legislative history, other court decisions, etc.
3. NEPA rules properly promulgated by agencies other than CEQ, e.g., [43 CFR 46](#), [36 CFR 220](#), including the CEQ regulations where those agency-specific regulations tier to the CEQ regs, e.g., [36 CFR § 220.4](#), 43 CFR §§46.10, 46.20, 46.30, 46.100, etc.
4. Internal agency guidance that is based on the NEPA statute, NEPA caselaw, and rules properly adopted by agencies with rulemaking authority, e.g., BLM ([516 DM 2](#), [516 DM 3](#), [516 DM 11](#)). USFS ([FSM 1950](#), [FSH 1909.15](#)).
5. [CEQ's Feb 19, 2025 memo](#) on implementation of NEPA says “ ... agencies should apply their current NEPA implementing procedures with any adjustments needed to be consistent with the NEPA statute as revised by the FRA. Moreover, although CEQ is rescinding its NEPA implementing regulations at 40 C.F.R. parts 1500–1508, agencies should consider voluntarily relying on those regulations in completing ongoing NEPA reviews ...” We will continue to cite the CEQ regs because it still represents the best available guidance on implementing the NEPA statute.

Some of the core requirements of the National Environmental Policy Act itself include ...

NEPA Section 101:

... [I]t is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

42 U.S.C. § 4331

NEPA Section 102:

The Congress authorizes and directs that, to *the fullest extent possible*: (1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and (2) *all agencies of the Federal Government shall—*

(A) utilize a *systematic, interdisciplinary approach* which will ensure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man’s environment;

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by title II of this Act, which will *ensure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations*;

(C) consistent with the provisions of this Act and except where compliance would be inconsistent with other statutory requirements, include in every recommendation or report on *proposals for legislation* and other *major Federal actions significantly affecting the quality of the human environment*, a *detailed statement* by the responsible official on—

- (i) reasonably *foreseeable environmental effects* of the proposed agency action;
- (ii) any reasonably *foreseeable adverse environmental effects which cannot be avoided* should the proposal be implemented; ‘

- (iii) a *reasonable range of alternatives* to the proposed agency action, including an analysis of any negative environmental impacts of not implementing the proposed agency action in the case of a no action alternative, that are *technically and economically feasible, and meet the purpose and need* of the proposal;
- (iv) the *relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity*; and
- (v) any *irreversible and irretrievable commitments* of Federal resources which would be involved in the proposed agency action should it be implemented.

Prior to making any detailed statement, the head of the lead agency shall *consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise* with respect to any environmental impact involved. *Copies of such statement and the comments* and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be *made available to the President, the Council on Environmental Quality and to the public* as provided by section 552 of title 5, United States Code, and shall accompany the proposal through the existing agency review processes;

(D) *ensure the professional integrity, including scientific integrity*, of the discussion and analysis in an environmental document;

(E) make use of *reliable data and resources* in carrying out this Act;

(F) consistent with the provisions of this Act, study, develop, and *describe technically and economically feasible alternatives*;

(G) ...

(H) study, develop, and *describe appropriate alternatives* to recommended courses of action in any proposal which *involves unresolved conflicts concerning alternative uses of available resources*;

(I) consistent with the provisions of this Act, *recognize the worldwide and long-range character of environmental problems* and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(J) make available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(K) initiate and *utilize ecological information in the planning and development of resource-oriented projects*; and

(L) assist the Council on Environmental Quality established by title II of this Act.

42 U.S.C. § 4332.

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Each substantive issue discussed in these comments should be (i) incorporated into the purpose and need for the project, (ii) used to develop NEPA alternatives that balance tradeoffs in different ways, (iii) carefully analyzed and documented as part of the effects analysis, and (iv) considered for mitigation.

Please post to the project website, links to all relevant ESA and EFH consultation documents, RMPs, watershed analyses, and other supporting documents relied on in the NEPA analysis.

Please post to the project website before the public comment period, georeferenced maps of the proposed activity units that can be used to navigate in the field using apps such as Avenza.

Please provide Oregon Wild with timely notice of any forthcoming comment opportunities, and any draft and final decisions on this project. If the agency discovers new information or changed circumstance or modifies the project or the analysis after the decision, Oregon Wild requests to be notified and provided an opportunity to comment.

Note: If any of these web links in these comments are dead, they may be resurrected using the Wayback Machine at Archive.org. <http://wayback.archive.org/web/>

Sincerely,

A handwritten signature in black ink that reads "Doug Heiken". The script is cursive and fluid, with the first letters of "Doug" and "Heiken" being capitalized and prominent.

Doug Heiken (he/him)
dh@oregonwild.org