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July 17, 2025

Phil Monsanto, District Ranger  
Clackamas Ranger District  
Mt. Hood National Forest  
16400 Champion Way  
Sandy, OR 97055

**Re: Stone Creek Vegetation Management Project**

Dear District Ranger Monsanto:

WildEarth Guardians (“Guardians”) submits these comments regarding the U.S. Forest Service’s draft environmental assessment (“Draft EA”) for Stone Creek Vegetation Management Project (Stone Creek Project) located on the Clackamas Ranger District of Mt. Hood National Forest. Guardians is a nonprofit conservation organization with offices in Washington, Oregon, and five other states. Guardians has nearly 200,000 members and supporters across the United States and works to protect and restore wildlife, wild places, wild rivers, and the health of the American West. Guardians and its members have specific interests in the health and resilience of public lands and waterways.

The Forest Service is proposing 930 acres of non-commercial thinning in young plantations, 850 acres of commercial thinning in plantations, and 1,190 acres of fuels reduction. The Forest Service is also planning 91 acres of “sanitation” in mixed conifer stands and 17 acres of regeneration cuts in Monticola Orchard. In order to facilitate the proposed logging activities, the Forest Service anticipates about 3 miles of temporary road construction. The Forest Service also proposes to close 20 miles of road and decommission 2 miles of road.

**COMMENTS**

**I. How national timber targets are influencing Forest Service priorities.**

The Forest Service is required to “mak[e] the most judicious use of the land.”<sup>1</sup> Such use must be done “without impairment of the productivity of the land.”<sup>2</sup> The Forest Service is prohibited

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<sup>1</sup> 16 U.S.C. § 531(a).

<sup>2</sup> *Id.*

from adopting management practices because they “will give the greatest dollar return or the greatest unit output.”<sup>3</sup>

When Congress enacted the National Forest Management Act (NFMA), it recognized that because “the majority of the Nation’s forests and rangeland is under private, State, and local governmental management,” it is those “nonfederally managed renewable resources” that provide the basis for “the Nation’s major capacity to produce goods and services.”<sup>4</sup> Congress also required the Forest Service to “reduce pressures for timber production from Federal lands.”<sup>5</sup> This must inform how the Forest Service views its public trust obligations in managing our national forests.

Instead of seeking ways to “reduce pressures for timber production from Federal lands,” over the last several years, the Forest Service has done just the opposite, ordering its staff to dramatically increase timber production from national forest lands. This overarching focus on meeting increasing “timber targets” is evident in both public and internal agency documents that reveal an agency culture that rewards forests/regions that meet their targets and punishes forests/regions that do not meet their targets. This incessant push to meet timber targets is coming at the expense of wildlife habitat and watersheds and impermissibly based on what “will give the greatest dollar return or the greatest unit output” of timber.

## A. Timber Targets Report

In April 2022, the Forest Service issued a report outlining how it could “achieve and sustain” a higher timber target.<sup>6</sup> At the outset, the agency explained that it had already increased timber volume output to an average of 3.08 BBF over a 5-year period ending in FY21, “higher than any period in the previous few decades.”<sup>7</sup> The Forest Service did this by “substantially increasing the use of the new stewardship and [Good Neighbor Agreement] authorities provided in the FY 2018 Omnibus Appropriation’s bill and 2018 Farm Bill,” which the agency said are “helping us increase vegetation treatments on National Forest System lands.”<sup>8</sup> The Forest Service said it had

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<sup>3</sup> *Id. See Mountain States Legal Foundation v. Glickman*, 92 F.3d 1228, 1238 (D.C. Cir. 1996) (stating that objectives for logging in forest management statutes “does not mean that logging must be maximized at the expense of all other values”).

<sup>4</sup> 16 U.S.C. § 1600(5). *See also* Butler and Sass, Wood Supply from Family Forests of the United States: Biophysical, Social, and Economic Factors, Forest Science (2023) (Ex. 1) (as of 2018, 88% of annual timber production in the U.S. is sourced from private forestlands), [https://www.fs.usda.gov/nrs/pubs/jrnl/2023/nrs\\_2023\\_butler\\_001.pdf](https://www.fs.usda.gov/nrs/pubs/jrnl/2023/nrs_2023_butler_001.pdf).

<sup>5</sup> 16 U.S.C. § 1600(7).

<sup>6</sup> Timber Target Report, 1 (Ex. 2); also available at <https://www.fs.usda.gov/about-agency/budget-performance/fy22-appropriations> (click on “Agency Timber Target” and then click on “Report”).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* Note: the Good Neighbor Authority allows the Forest Service “to enter into agreements with State, County, and Tribal agencies to perform forest, rangeland, and watershed restoration services on, and adjacent to, National Forest System lands.” *See* <https://web.archive.org/web/2025021114541/https://www.fs.usda.gov/detailfull/r5/workingtogether/partnerships/?cid=fseprd646022>. Stewardship agreements “are a tool that the Forest Service can use to engage any non-federal partner when there is a mutual interest and mutual benefit presented in a proposed project to be implemented on National Forest System lands.” *Id.*

“increased training on the use of the new authorities” in order to “continue the expansion of the timber program[.]”<sup>9</sup>

According to the Forest Service, by the end of FY21, the recent increase in timber volume output to a 5-year average of 3.08 BBF had already “outpaced the agency’s ability to prepare enough project areas and has exhausted most of the agency’s available NEPA-approved projects.”<sup>10</sup> Despite that, the Forest Service acknowledged there were “additional increases planned for the upcoming years” and the agency was “increasing [its] effort in preparatory work to achieve and sustain” even “higher volume sold output[s].”<sup>11</sup> In order to “develop, implement, and administer more timber sales to attain an increased target,” the Forest Service stated that “a reallocation of agency support staff for administrative, human resources, finance, information technology, and related functions must also be prioritized to support this effort.”<sup>12</sup>

The Forest Service next stated that the Pacific Northwest was one of three regions that “should have the greatest increase in total volume sold” in order to attain and sustain higher timber targets.<sup>13</sup> In order to do that, the Forest Service said it continues to “actively pursue updating land management plans” (like the NWFP) and to “promote areas where there has been limited harvesting opportunities.”<sup>14</sup>

In February 2023, the Forest Service increased the national timber target to 4 BBF.<sup>15</sup> The Pacific Northwest Region’s timber targets were set at 575 million board feet (MMBF) in FY23, increasing to 653 MMBF in FY24.<sup>16</sup> This is in keeping with the Timber Target Report’s call for the Pacific Northwest to be one of the regions to “have the greatest increase in total volume sold.”

This increased timber target for the Pacific Northwest threatens our regions forests, watersheds, and wildlife.

## B. Pressure to meet timber targets

The Forest Service puts an enormous amount of pressure on its staff to meet assigned timber targets. For example, in notes provided to an incoming Acting Assistant Director in 2015, regional staff explained that the Washington Office “will probably have continued asks for more volume” and that forests are “SOL if they can’t get the NEPA done.”<sup>17</sup> The notes went on to state that former Regional Forester Jim Pena had been “less than impressed with how we have

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 2.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> David Lytle email, 1 (**Ex. 3**) (obtained in response to FOIA Request #2024-FS-R6-04259-F).

<sup>16</sup> *Id.* at 4.

<sup>17</sup> Notes for Nancy in her Acting Assistant Director Detail, 3 (**Ex. 4**) (obtained in response to FOIA Request #2024-FS-R6-04259-F). Note that although the document is undated, it appears to have been produced sometime in 2015 as it references the “initial budget” for FY16. *See id.* at 2.

implemented all the new authorities in the 2014 Farm Bill” and that he “is especially interested in the Good Neighbor Authorities with States.”<sup>18</sup> The notes further stated that forests should not be “so hesitant in using the 3000 acre CE authority inside insect and disease designated areas.”<sup>19</sup>

The push to avoid being a forest that is “SOL if they can’t get the NEPA done” almost certainly means that corners are being cut, resulting in unanticipated and needless environmental impacts. For example, in a 2017 audit of the Malheur National Forest’s timber program, the Regional Office admitted that:

In the past 3-4 years, several forests in the region have had timber sales containing units that **have not been analyzed in the NEPA document and/or were inconsistent with the preferred NEPA decision**. Three common factors between these sales were: the lack of frequent and open communications as the project moved from design to implementation, no review of the contract or task order package prior to advertisement or award, and little involvement by line officers.<sup>20</sup>

Which forests were these? Did this include the Mt. Hood National Forest? In addition to the “three common factors,” what other factors led to timber sales in these forests “containing units that have not been analyzed in the NEPA document and/or were inconsistent with the preferred NEPA decision?”

Despite its knowledge that timber sale implementation on “several forests in the region” included “units that had not been analyzed in the NEPA document and/or were inconsistent with the preferred NEPA decision,” the Regional Office continued to push forests to do more to increase timber volume output, even to the point of reminding staff that their jobs depended on it. In December 2017, former Regional Forester James Pena sent a letter to forest supervisors in Region 6 stating:

[I]t is critical that we take advantage of all the tools that we have available to us to implement an integrated restoration program. These include, but are not limited to, **simpler NEPA analysis**, virtual boundaries, weight scaling, DxP and DxD, Good Neighbor, Tribal Forest Protection Act and stewardship contracting authorities. **Just as use of these types of tools are part of my performance standards, they will also be part of your performance standards**. Please expect a request to all Forest Supervisors and the Area Manager specifically identifying the tools that you are currently using and those that you plan to implement during FY 2018.<sup>21</sup>

The fact that meeting timber targets factors so heavily into the job performance for Forest Service staff likely causes staff to overlook or disregard impacts to wildlife and watersheds. Just

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<sup>18</sup> *Id.* at 4.

<sup>19</sup> *Id.*

<sup>20</sup> Regional Product Accountability Audit and Timber Program Review – Malheur National Forest, 7 (May 8-12, 2017) (emphasis added) (**Ex. 5**) (obtained in response to FOIA Request #2024-FS-R6-04259-F).

<sup>21</sup> James Pena letter (Dec. 21, 2017) (emphasis added) (**Ex. 6**) (obtained in response to FOIA Request #2024-FS-R6-04259-F).

a few months after Regional Forester Pena’s letter, the Acting Threatened and Endangered Species (TES) Program Manager for Region 6 sent an email stating the Mt. Baker-Snoqualmie National Forest was “very concerned of not meeting this year’s timber target as a result of T&E issues.”<sup>22</sup> The TES Program Manager stated that they were “trying to help them find options” but “am really at a loss for ideas” and “I feel horrible for that.”<sup>23</sup> Needless to say, but the focus of the Region’s TES Program should be for threatened and endangered species, not whether a national forest meets its timber target.

In 2023, a mid-year increase of the Siuslaw National Forest’s timber target resulted in “complaints” from staff that the agency was “sacrificing aquatics for additional 5 mmbf.”<sup>24</sup> Two months later, in a meeting with the Federal Timber Purchasers Committee (FTPC), Region 6 staff revealed why some staff on the Siuslaw National Forest are concerned about “sacrificing aquatics” in exchange for increasing timber volume outputs. Specifically, Region 6 staff assured FTPC that “we are seeking efficiencies with NEPA documents” and “are going to be as aggressive as possible in meeting the 575 [MMBF] target” for FY23.<sup>25</sup>

In a June 2023 “timber target check-in” meeting, Region 6 leadership bluntly told its staff that “[w]e either meet our target or not, period” and they had “a lot of ground to make up” before the end of the fiscal year because their “numbers are dismal.”<sup>26</sup> In order to drive the point home, Region 6 leadership explained that because they “came up short last year” it “set a bad precedent that R6 is not a good investment.”<sup>27</sup> As a result, Region 6’s “NFTM dollar were reduced and sent to R8 & 9.”<sup>28</sup> In other words, the Forest Service’s Washington Office punishes regions that do not meet their timber target, creating a perverse incentive to be “as aggressive as possible” to meet that target, even perhaps, if it means “sacrificing aquatics” and disregarding impacts to threatened and endangered species.

The discussion above demonstrates that the Forest Service’s near singular focus on attaining arbitrarily set timber targets is the opposite of “the most judicious use of the land.”<sup>29</sup> Rather, it is evidence that the agency’s decision-making process is improperly influenced on what “will give the greatest dollar return or the greatest unit output” of timber.<sup>30</sup> And when timber targets are increased even in the face of agency personnel voicing concerns about “sacrificing aquatics” to

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<sup>22</sup> Anne Poopatanapong email (May 3, 2018) (**Ex. 7**) (obtained in response to FOIA Request #2024-FS-R6-04259-F).

<sup>23</sup> *Id.*

<sup>24</sup> FY23 R6 Final Timber Volume Sold Target Assignment to Units (Column G), 2-22-23 (**Ex. 8**) (see Row 8, Column I. Note that the author wrote “scraficing auaties,” which was clearly intended to mean “sacrificing aquatics”) (obtained in response to FOIA Request #2024-FS-R6-04259-F).

<sup>25</sup> Draft FTPC R6 Breakout Discussion (Apr. 19, 2023) (emphasis added) (**Ex. 9**, p. 257) (obtained in response to FOIA Request #2024-FS-R6-04259-F).

<sup>26</sup> Timber target check-in 6/9/2023 (**Ex. 10**) (obtained in response to FOIA Request #2024-FS-R6-04259-F).

<sup>27</sup> *Id.*

<sup>28</sup> *Id.* Note that NFTM is the Forest Service budget line item for forest products.

<sup>29</sup> 16 U.S.C. § 531(a).

<sup>30</sup> *Id.*

sell an addition 5 MMBF, it is clear that such decisions are not “without impairment of the productivity of the land.”<sup>31</sup>

**C. Recent legal and administrative changes significantly increase pressure on agency staff to boost logging.**

Section 40807 of the Infrastructure Investment and Jobs Act<sup>32</sup> (IIJA) authorized the Secretary of Agriculture to “make a determination that an emergency situation exists with respect to National Forest System land.”<sup>33</sup> That determination “shall be based on an examination of the relevant information.”<sup>34</sup> If such a determination based on relevant information is made, the Forest Service may carry out “authorized emergency actions . . . in order to achieve reliefs from hazards threatening human health and safety or mitigation of threats to natural resources on National Forest System land or adjacent land[.]”<sup>35</sup> These authorized activities are limited to:

- Salvage logging of dead or dying trees
- Logging and removal of trees damaged by wind or ice
- Commercial and noncommercial sanitation logging to control insects or disease, including trees already infested with insects or disease
- Reforestation or replanting of fire-impacted areas through planting, control of competing vegetation, or other activities that enhance natural regeneration and restore forest species
- Removal of hazardous trees in close proximity to roads and trails
- Removal of hazardous fuels
- Restoration of water sources or infrastructure
- Reconstruction of existing utility lines
- Replacement of underground cables<sup>36</sup>

Any authorized emergency action “shall be conducted consistent with the applicable land and resource management plan.”<sup>37</sup>

However, actions under this emergency authority are subject to minimal environmental analysis and minimal public input. For applicable projects, the Forest Service has no obligation to consider any alternatives to the proposed action other than the “no action” alternative.<sup>38</sup> In terms of public participation, the public is limited to a single comment period and is barred from filing objections to the agency’s final decision.<sup>39</sup> This significantly limits the public’s ability to have input during the administrative review process, leaving litigation as the sole backstop to check the agency’s potential misuse of this authority.

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<sup>31</sup> *Id.*

<sup>32</sup> Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, § 40807, 135 Stat. 429, 1112-1114 (2021) (codified at 16 U.S.C. § 6592c).

<sup>33</sup> 16 U.S.C. § 6592c(b)(1)(A).

<sup>34</sup> 16 U.S.C. § 6592c(b)(1)(C).

<sup>35</sup> 16 U.S.C. § 6592c(b)(2).

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* § 6592c(b)(3).

<sup>38</sup> 16 U.S.C. § 6592c(c)(1).

<sup>39</sup> *Id.* §§ 6592c(c)(3); 6592c(d).

## 1. The First ESD (2023)

In early 2023, Secretary of Agriculture Tom Vilsack issued the first emergency situation determination (ESD) for National Forest System lands using the authority under Section 40807 of the infrastructure law.<sup>40</sup> That determination was “[b]ased on the risks outlined in the [Wildfire Crisis Strategy]” and covered National Forest System lands in “250 high-risk fire sheds in the western U.S.”<sup>41</sup>

Shortly after Secretary Vilsack issued the ESD, then Deputy Chief Chris French (now Associate Chief), hosted a webinar to explain to Forest Service personnel across the country what the ESD meant and how it would be implemented. During the Q&A part of the webinar, Deputy Chief French explained the agency’s basis for the ESD in a bit more detail and that it covered 27 million acres of national forest lands:

[AMANDA JOHNSON] Next question, can you speak to how the high-risk areas were designated? I would think that there would be overlap with the [Insect and Disease] treatment areas authorized by section 8204 of the Agriculture Act of 2014, but there doesn't appear to be much if any overlap.

[CHRIS FRENCH] Yeah, man. I could certainly talk to that. So one of the things that we wanna talk about here is that there's actually a whole set of efficiencies that you can use beyond these emergency authorities. And one of those, and there was, you know, direction that we sent out last year that says, if you're in a high-priority landscape, or one of these high-risk fire sheds, you should be starting with authorities that we have under the Healthy Forest Restoration Act, in the Insect and Disease Designations to help you with efficiencies to comply with the National Environmental Policy Act.

This [Emergency Situation] Declaration [issued by Secretary Vilsack in 2023], is based on high-risk fire. And the way that those fire sheds, the 250 high-risk fire sheds were developed is that **working with our research branch, they looked at where we had the highest potential for high-intensity fire and then what was the critical exposure to structures that was involved with that. And that is the basis for those 250 fire sheds.** It's essentially where we have the highest potential [for high-intensity fire] and we have the highest exposure to structures.

Now I recognize there are a number of other needs that are out there that go beyond that. We can certainly catalog and work with you on some of this.

But for this emergency declaration, for this 27 million acres, it is specifically in those 250 fire sheds that were identified in the Wildfire Crisis Strategy. It's a big deal. This is a lot of acres. I recognize it doesn't hit every one of the needs you may see out there. But it is

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<sup>40</sup> Chief Randy Moore Letter to Forest Service National Leadership Council, *Implementing Secretary’s Direction on Authorized Emergency Actions* (Mar. 10, 2023) (Ex. 11).

<sup>41</sup> *Id.* at 1.

a game changer for a huge number, a huge amount of work that we have across the agency.<sup>42</sup>

This is important because, just two years ago, the basis for the first ESD was on those national forest lands in the 250 firesheds that have the “highest potential for high-intensity fire” in relation to where there is the “highest exposure to structures.” That resulted in 27 million acres of national forest land being subject to emergency actions with minimal environmental analysis and minimal public input. Deputy Chief French called this a “big deal” and a “game changer” on “a lot of acres.” Importantly, Secretary Vilsack found no reason to include most of the lands designated as Insect and Disease treatment areas in his ESD because for those lands “there’s actually a whole set of efficiencies that you can use beyond these emergency authorities.”

## 2. The Second ESD (2025)

On March 1, 2025, the Trump administration ordered an “immediate expansion of American timber production” on federal lands.<sup>43</sup> The executive order claims, without any evidence, that so-called “onerous” federal policies have impeded the nation’s ability to “fully exploit our domestic timber supply” and “forced our Nation to rely upon imported lumber.”<sup>44</sup> The executive order then claims that it is “vital [to] reverse these policies and increase domestic timber production.”<sup>45</sup>

On April 3, 2025, Secretary of Agriculture Brooke Rollins issued a memo in response to EO 14225.<sup>46</sup> In the memo, Secretary Rollins claimed that the lack of “active management” (i.e., logging) was partly to blame for a significant portion the National Forest System allegedly being “in crisis.”<sup>47</sup> Secretary Rollins then cited authority in Section 40807 of the infrastructure law to issue a second ESD covering 112,646,000 acres of National Forest System lands (59% of the entire system).<sup>48</sup> This nearly quadrupled the acreage covered by Secretary Vilsack’s ESD issued just two years earlier. The significantly expanded ESD issued by Secretary Rollins seems more related to the current administration’s preference for using emergency powers as the default approach to implementing policy.<sup>49</sup>

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<sup>42</sup> See U.S. Forest Serv., *Virtual Emergency Declarations: Workshop Meeting* (Feb. 1, 2023) (quoted language at 1:18:43 – 1:20:46, cleaned up for clarity), <https://usda-fs.wistia.com/medias/gzpe0ov971> (transcript included as **Ex. 12**; quoted language on p. 30).

<sup>43</sup> Exec. Order No. 14225, 90 Fed. Reg. 11365 (Mar. 6, 2025) (EO 14225).

<sup>44</sup> *Id.*

<sup>45</sup> *Id.* Interestingly, at no point does EO 14225 call on the Forest Service to use its statutory authority to “reduce pressures for timber production from Federal lands” by “expand[ing] its research in the use of recycled and waste timber product materials.” 16 U.S.C. § 1600(7). Nor does the EO direct the Forest Service to “promote and encourage the use of recycled timber product materials.” *Id.*

<sup>46</sup> Secretary Rollins Memorandum 1078-006, *Increasing Timber Production and Designating and Emergency Situation on National Forest System Lands* (Apr. 3, 2025) (**Ex. 13**).

<sup>47</sup> *Id.* at 2.

<sup>48</sup> *Id.*

<sup>49</sup> See Byron Tau et al., *The 9/11 presidency: Trump flexes emergency powers in his second term*, Associated Press, June 7, 2025, <https://apnews.com/article/trump-emergency-powers-tariffs-immigration-5cbe386d8f2cc4a374a5d005e618d76a>. (noting that of the 150 executive orders issued by the current administration, 30 of them “have cited some kind of emergency power or authority, a rate that far outpaces his recent predecessors”) (**Ex. 14**).

Also on April 3, 2025, Associate Chief French sent a letter to all Regional Foresters and Deputy Chiefs regarding implementation of Secretary Rollins' memo.<sup>50</sup> Associate Chief French directed a 25% increase in the national timber target over the next 4-5 years.<sup>51</sup> In order to execute that increase, the Associate Chief directed all Line Officers to:

use innovative and efficient approaches to meeting the minimum requirements of the [NEPA], Endangered Species Act, National Historic Preservation Act, and other environmental laws, including categorical exclusions, emergency authorities (including the Secretary's recent expanded Emergency Situation Determination), condition-based management, determinations of [NEPA] adequacy, and staged or tiered decision-making.<sup>52</sup>

The Associate Chief also directed Forest Supervisors to use timber designations by prescription (DxP) and designations by description (DxD) as "the default approach in implementing timber projects."<sup>53</sup> This largely shifts the responsibility for deciding which trees to cut to the logging companies contracted to implement approved projects.

The measures listed in Associate Chief French's letter minimize environmental analysis, minimize public input, and reduce agency oversight and accountability of our national forests. Remarkably, Associate Chief French claims these reductions in environmental analysis, public input, and agency accountability "exemplify excellence in stewarding public lands for the American people."<sup>54</sup>

## II. The Stone Creek Project

### A. The Forest Service cannot rely on the ESD for the Stone Creek Project

When the Forest Service scoped the Stone Creek Project in 2024, the project area was not located in an area subject to an ESD. That meant that the project would follow the ordinary environmental analysis process with an opportunity to file objections to the agency's proposed decision. The Forest Service abruptly changed course following Secretary Rollins' ESD. Now, the Forest Service says the project falls "entirely within" the ESD area designated by Secretary Rollins.<sup>55</sup> As a result, the only further opportunity for public engagement is this comment period on the Draft EA. There will be no opportunity to file an objection prior to the Forest Service's final decision.

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<sup>50</sup> Associate Chief French Letter to Reginal Foresters and Deputy Chiefs, *Implementation of Secretarial Memo 1078-006* (Apr. 3, 2025) (Ex. 15).

<sup>51</sup> *Id.* at 1.

<sup>52</sup> *Id.* at 2.

<sup>53</sup> *Id.*

<sup>54</sup> *Id.* at 4.

<sup>55</sup> Draft EA at 7.

This change is significant because the Forest Service acknowledges that implementation of the project will violate applicable Forest Plan standards and guidelines for minimizing detrimental soil impacts. Specifically, the Forest Service admits that violations of FW-022 regarding soil protection and FW-028 regarding soil rehabilitation will occur and proposes exceptions to meeting these requirements.<sup>56</sup>

However, the emergency authority law requires that authorized actions “shall be conducted consistent with the applicable land and resource management plan.”<sup>57</sup> If the Forest Service has to make exceptions to Forest Plan, then the project cannot be “consistent with” the Forest Plan. To read Section 40807 any other way makes the Forest Plan consistency requirement superfluous.

Even if the exceptions could apply in the context of an ESD project (which they do not), the Forest Service failed to adequately document its rationale for the exceptions. For FW-022, the Forest Service admits that “existing conditions do not currently meet this Forest Plan standard due to past management activities” and “the Proposed Action would exceed FW-022.”<sup>58</sup> The Forest Service further admits that the “potential for the extent to increase above 15 percent is greatest on 48 percent of the Stone Creek treatment area.”<sup>59</sup> While the Forest Service claims that project design criteria (PDCs) “are prescribed to minimize and contain additional detrimental soil impacts,” on 18 units, “the risk of diminishing soil quality is greatest . . . , potentially reducing indirectly the long-term productivity of the site and the capability of the soil to support a fully stocked healthy forest.”<sup>60</sup> This is insufficient to warrant use of the claimed exception.

For FW-028, the Forest Service admits that “it is not possible or practicable to rehabilitate all existing impacts at this time” and that “about half of the proposed units would remain above 15% detrimental soil condition.”<sup>61</sup> The Forest Service provides no timetable for rehabilitating soil conditions in the project area. This likely results in a violation of FW-029, which requires the Forest Service to rehabilitate soils “within 1 year of project completion.”<sup>62</sup>

In sum, the Forest Service cannot rely on exceptions to the Forest Plan for projects analyzed under the cited ESD. Even if those exceptions were somehow eligible, the Forest Service has not provided sufficient documentation for their use. The proposed action also likely violates at least one other Forest Plan requirement, which the Forest Service has not considered at all.

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<sup>56</sup> *Id.* at 7, 21-22.

<sup>57</sup> 16 U.S.C. § 6592c(b)(3).

<sup>58</sup> Draft EA at 7.

<sup>59</sup> *Id.* at 21.

<sup>60</sup> *Id.* at 7, 21.

<sup>61</sup> *Id.* at 22.

<sup>62</sup> Forest Plan, FW-029.

**B. The Forest Service failed to adequately consider impacts to threatened and endangered species.**

The entire analysis of the potential impacts to threatened and endangered species takes up about half of one page.<sup>63</sup> That includes direct, indirect, and cumulative effects. The analysis provided in these scant paragraphs does not meet the “hard look” required by NEPA.

In particular, the Forest Service’s cumulative effects analysis on northern spotted owl is significantly flawed. Specifically, the Forest Service used the same 1.2-mile radius buffer for analyzing cumulative effects that it did for analyzing direct and indirect effects.<sup>64</sup> This is a significant departure from past practice. For example, in the recent Grasshopper Project on Mt. Hood National Forest, the Forest Service’s cumulative effects analysis area for northern spotted owl “was completed within the White River Watershed.”<sup>65</sup> The Forest Service explained that cumulative effects analysis “at the watershed scale allows for a biologically meaningful analysis and supports management of migratory or dispersal corridors for northern spotted owls.”<sup>66</sup>

Based on this unreasonably small analysis area for cumulative effects, the Forest Service concluded that “the impacts of the proposed action when added to other past, ongoing, and foreseeable actions, would be negligible and would not impact northern spotted owl survival, reproduction, feeding, or care of young.”<sup>67</sup> The Forest Service concludes that none of the 11 historic owl home ranges present in the project area “would be substantially affected.”<sup>68</sup> The Forest Service cannot make such a conclusion based on this inadequate cumulative effects analysis.

Thank you for the opportunity to comment.

Sincerely,



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<sup>63</sup> Draft EA at 35-36.

<sup>64</sup> See Wildlife Report at 15, 24.

<sup>65</sup> Grasshopper EA, Wildlife Report at 12 (**Ex. 16**).

<sup>66</sup> *Id.* at 12-13.

<sup>67</sup> Draft EA at 35.

<sup>68</sup> *Id.* at 35.