



Nez Perce

TRIBAL EXECUTIVE COMMITTEE

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August 12, 2025

Submitted via email to: johnny.collin@usda.gov

Mr. Johnny Collin
District Ranger, Walla Walla District
Umatilla National Forest
1415 W Rose St.
Walla Walla, WA 99362

Re: Nez Perce Tribe's comments on Mottet Vegetation Management Project Scoping

Dear District Ranger Collin:

Thank you for the opportunity to provide comments on the Mottet Vegetation Management Project ("Project"). The Project proposes commercial and non-commercial vegetation treatments across approximately 48,165 acres within the upper Lookingglass Creek watershed. The stated purpose of the Project is to reduce fuel loads and wildfire risk, improve forest health and resilience to insects, disease, and climate change, and support habitat conditions for wildlife and aquatic species. Proposed activities include thinning, prescribed burning, temporary road use, road decommissioning, and other forest management actions within the Walla Walla Ranger District of the Umatilla National Forest ("Forest").

Since time immemorial, the Nez Perce Tribe ("Tribe") has occupied and used over 13 million acres of land now comprising north-central Idaho, southeast Washington, northeast Oregon, and parts of Montana. Tribal members have engaged in fishing, hunting, gathering, and pasturing across their vast aboriginal territory, and these activities played—and continue to play—a major role in the subsistence, culture, religion, and economy of the Tribe.

As the Forest is aware, this Project is located entirely within the Tribe's aboriginal territory subject to the rights the Tribe reserved, and the United States secured, in the Treaty of 1855.¹ The Tribe considers the protection of its Treaty-reserved rights, and other rights to and interests in its homeland, to be a paramount obligation of the Forest when developing this Project. The Forest has a trust responsibility to ensure that its actions, including implementation of this Project, are fully consistent with the 1855 Treaty, executive orders, departmental regulations, and other federal laws implicating the United States' unique relationship with the Tribe.

¹ Treaty with the Nez Percés, June 11, 1855, 12 Stat. 957.

The Mottet Project area encompasses critical aquatic habitat and fishery resources that have sustained the Nez Perce people since time immemorial. Lookingglass Creek and its tributaries support Endangered Species Act-listed populations of spring Chinook salmon, steelhead, and bull trout. These waters also provide source flows for the Lookingglass Fish Hatchery, which is essential to the Tribe's conservation and recovery efforts for five unique spring Chinook stocks: Upper Grande Ronde, Catherine Creek, Lookingglass Creek, Lostine, and Imnaha. The Project area's ecological function is critical to the Tribe's ongoing work to protect and restore culturally significant fisheries and aquatic ecosystems.

Again, we appreciate the opportunity to provide comment, including the grant of an extension of time to do so. But we must also highlight the need for the extension: the lack of direct notice of this scoping period from the Umatilla National Forest to the Tribe's leadership or key staff. We welcome a conversation about how to ensure consistent communication between the Forest and the Tribe about this and future project proposals, as our unique relationship demands.

Specific to this Project, we request a written response to the Tribe's technical comments, including answers to the many outstanding questions they pose. We also request a staff-to-staff meeting to discuss the Project, as well as a separate tour with Forest staff of the Project area within the current field season, and preferably within the next two months given the Forest's plans for Spring 2026 implementation.

The Tribe's technical comments follow this letter; they reflect the policy views and technical concerns of the Tribe. Please contact Angela Jackson, Nez Perce Tribe Communication Project Coordinator, at 208-621-4781 or angelab@nezperce.org, with any questions or concerns, and to schedule the requested staff-to-staff meeting and field tour.

Sincerely,



Shannon F. Wheeler
Chairman

NEZ PERCE TRIBE’S COMMENTS ON MOTTET VEGETATION MANAGEMENT PROJECT
AUGUST 12, 2025

I. GENERAL COMMENTS

Treaty tribes, such as the Nez Perce Tribe (“Tribe”), have been recognized as managers of their Treaty-reserved resources.² As a manager, the Tribe has devoted substantial time, effort, and resources to the recovery and co-management of our Treaty-reserved resources.

As fiduciary, the United States and all its agencies owe a trust duty to federally recognized Indian tribes to protect their resources.³ This trust relationship has been described as “one of the primary cornerstones of Indian law,”⁴ and has been compared to the relationship existing under the common law of trusts, with the United States as trustee, the tribes as beneficiaries, and the property and natural resources managed by the United States as the trust corpus.⁵

All executive agencies of the United States are subject to the federal trust responsibility to recognize and uphold treaty-reserved rights. Executive agencies must also protect the habitats and resources on which those rights rest, as the right to take fish and other resources reserved by the Tribe presumes the continued existence of the biological conditions necessary to support the treaty-reserved resources.⁶

Forest Service Manual (“FSM”) 1563.8b specifically states that the Forest Service “shall administer lands subject to off-reservation treaty rights in a manner that protects Indian tribes’ rights and interests in the resources reserved under treaty.” Further, FSM 1563.03 directs the Forest Service, among other responsibilities, to “[i]mplement Forest Service programs and activities consistent with and respecting Indian treaty and other reserved rights and fulfilling the Federal Government’s legally mandated trust responsibility with Indian Tribes.”

In furtherance of these duties, the Tribe requests that the Mottet Vegetation Management Project (“Project”) not proceed under an Emergency Action Determination as contemplated by the scoping notice. As discussed below, the Tribe lacks many key details necessary for understanding how the Project will affect its homelands and Treaty-reserved rights and resources. The Tribe expects to be fully involved in the Umatilla National Forest’s (“Forest”) development and analysis of the Project, and harbors serious doubts that such involvement will be possible using an accelerated decision-making process.

² *U.S. v. Washington*, 384 F. Supp. 312, 339-40, 403 (W.D. Wash. 1974).

³ *See United States v. Cherokee Nation of Oklahoma*, 480 U.S. 700, 707 (1987); *United States v. Mitchell*, 463 U.S. 206, 225 (1983); *Seminole Nation v. United States*, 316 U.S. 286, 296-97 (1942).

⁴ Felix Cohen, *Handbook of Federal Indian Law* 221 (1982).

⁵ *See, e.g., Mitchell*, 463 U.S. at 225.

⁶ *See, Kittitas Reclamation Dist. v. Sunnyside Valley Irr. Dist.*, 763 F.2d 1032 (9th Cir. 1985), *cert. denied*, *Sunnyside Valley Irrigation District v. United States*, 474 U.S. 1032 (1985).

The Tribe further requests that the Forest prepare a full environmental assessment (“EA”) for the Project pursuant to the National Environmental Policy Act (“NEPA”). As proposed, the Project will span over 47,000 acres of land, including 2,243 acres managed as riparian areas, 19,647 acres managed as wildlife habitat, and 1,798 acres managed as old growth forest. The Tribe has identified a number of important issues that the Forest must analyze, including effects to fisheries, wildlife, and water quality and quantity. The Project may amount to a “major Federal action[] significantly affecting the quality of the human environment” and thus warrant preparation of an environmental impact statement (“EIS”).⁷

To determine whether to prepare an EIS, the Forest must first prepare an EA. The EA must be sufficient to make such a determination. The Tribe disagrees with the use of an abbreviated EA as contemplated in the scoping notice, which would only evaluate the proposed action and the no-action alternative. The Tribe is particularly concerned that an abbreviated EA will limit the Tribe’s ability to propose less-impactful middle ground alternatives based on its rights, interests, and knowledge of the area, undermine the comparative analysis of alternatives central to NEPA’s operation and efficacy, and ultimately cast into serious doubt any finding of no significant impact.

II. FISHERIES RESOURCES

The Forest Service has proposed the Mottet Vegetation Management Project for the headwaters of the Lookingglass Creek watershed, an area of deep importance to the Tribe due to its fisheries resources. The Lookingglass Creek watershed provides important habitat for Endangered Species Act (“ESA”)-listed fish including Chinook salmon, steelhead and Bull trout, as well as sensitive freshwater mussels, Pacific lamprey, and other native species.

Table 1 below outlines fish distribution data within the project area. In addition to the five streams listed, steelhead have also been documented in Swamp, Buzzard, Lost, and Moses Creeks according to ODFW, 2001. ODOT and ODFW have identified over 20 passage barriers on Lookingglass and nine of its tributaries within the project area (OFPBDS 2020). Eleven of these barriers have been determined by the State of Oregon to either partially or completely block fish passage and fall within tributaries containing ESA-listed fish species.

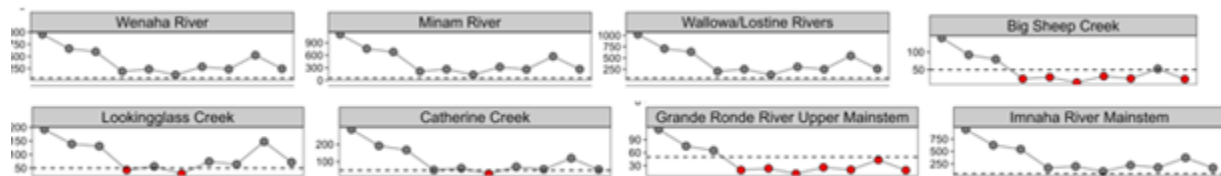
ESA Species	Data & Source	Lookingglass Cr	Little Lookingglass Cr	Mottet Cr	Summer Cr	Jarboe Cr
Chinook	Current Use - Spawning and/or Rearing (CRITFC 2020)	>2 miles	>1 miles			
	Historic Use - Spawning & Rearing (CRITFC 2020)	Y	Y	Y	Y	Y
Steelhead	Distribution (ODFW 2001)	Y	Y	Y	Y	Y
Bull Trout	Distribution (ODFW 2001)	Y	Y	Y	Y	

Table 1. Documented ESA listed fish distribution in the Lookingglass Creek watershed within the Mottet Vegetation Management project area.

⁷ 42 U.S.C. § 4332(2)(C).

Little Lookingglass Creek, a major tributary to Lookingglass Creek, is designated as a key watershed under the Blue Mountains National Forest Plan based on PACFISH and INFISH. Lookingglass Creek itself serves as the primary water source for Lookingglass Fish Hatchery, which is operated by the Oregon Department of Fish and Wildlife and co-managed with the Nez Perce Tribe and Confederated Tribes of the Umatilla Indian Reservation with funding from the U.S. Fish and Wildlife Service. The hatchery was constructed and is operated to mitigate for the impacts of the four lower Snake River dams to salmon and steelhead in the Grande Ronde and Imnaha subbasins. Each year, 1.4 million juvenile spring Chinook are reared at Lookingglass Hatchery from five unique ESA-listed spring Chinook populations: Upper Grande Ronde, Catherine Creek, Lookingglass Creek, Lostine River, and Imnaha River. Several of these populations are at extreme risk of extirpation and the hatchery program is essential to their continued existence and conservation.

Natural production of spring Chinook in the Grande Ronde and Imnaha basins is critically low.⁸ For the past decade, annual returns to the five populations supported by Lookingglass Fish Hatchery have remained below the minimum abundance thresholds established under the Endangered Species Act. Across these populations, abundance has declined by approximately 5% per year, with projections indicating that fewer than 50 fish will return to Lookingglass Creek and the upper Grande Ronde within five years. Any reduction in hatchery production at Lookingglass Hatchery—such as that caused by complications from the proposed project—would further jeopardize natural production by limiting the availability of hatchery fish for supplementation.



Troublingly, there is no mention of native and/or culturally significant aquatic species in the scoping materials provided. Indeed, the scoping package lacks many important details necessary to understanding the effects of the Project on fisheries resources. The Tribe’s questions include:

- The term “LRx” on the “Mottet preliminary proposed treatment map” is undefined across all provided scoping materials. These areas (marked in pink) are all directly adjacent to streams and encompass over 4,400 acres of stream and riparian areas. What is the definition of “LRx”?
- There is no mention of PACFISH buffers or sensitive species in waterways or the adjacent riparian area. What standards or guideline would be used to protect streams and riparian areas?

⁸ Hesse, J.A. and Kinzer, R.N., 2025. Snake River Anadromous Fish Status: Quasi-Extinction Threshold Analysis. Department of Fisheries Resources Management. Version: 09 June, 2025. Available at: <https://ryankinzer.github.io/SRAFS/>.

- The Project is proposed to occur across two watershed and three roadless areas. How would these areas be accessed? There is no mention of the addition of roads, though the proposed project plans to employ commercial thinning across 70% (nearly 19,000 acres) of the Project area.
- Where will temporary roads be placed on the landscape? And how long will those roads be on the landscape? Will the Forest Service, as the Tribe expects, fully recontour of these roads after the project is completed? The Tribe encourages the Forest to minimize construction of temporary roads to the greatest extent possible and to keep them on the landscape for the shortest period of time possible. The Tribe requests that the Forest maintain any temporary roads associated with this Project for the shortest amount of time possible, ideally for fewer than three years.
- What are the limitations to large openings created through the harvest of timber? Large openings have a potential to impact hydrology, and therefore fish habitat.
- What sediment analyses will the Forest Service conduct for both harvest areas as well as roads?
- High road densities have documented deleterious effects on watershed ecosystem health. Most forest roads that are adjacent to streams and stream crossings cause high erosion and have a high failure rate. Additionally, roads can produce a high amount of sediment from erosion when not stabilized properly. What analyses will the Forest Service undertake of roads and erosion detrimental to fish habitat and water quality? The Tribe recommends the use of WEPP or other modeling to ensure the highest problem road sections are improved prior to the project. Existing roads should be improved prior to the Project's implementation.
- When using existing roads, how will they be rehabilitated, stabilized or upgraded to ensure they are stable for additional traffic and logging equipment? Will any roads be decommissioned? The Tribe recommends the Forest complete a thorough roads analysis to identify any road projects (non-system road decommissioning, storm damage reduction, road improvements, road relocation, etc.) that would reduce Project-area road impacts to the aquatic ecosystem.
- What consideration has the Forest Service given to restoration actions that could be implemented as part of the Project such as culvert replacements for fish passage, beaver dam analogs or post-assisted log structures for fish habitat improvement, or riparian or stream restoration? The Tribe recommends including these and other restoration opportunities into the Project.
- Lookingglass Hatchery is located at the bottom of the Lookingglass Creek watershed and will receive what happens in the headwaters—for example, added sediment, spilled pollutants, or elevated stream temperatures. The Tribe is seriously concerned about any changes to Lookingglass Creek's water yield, peak flow, and hydrograph, as well as increased water temperatures, increased sediment/turbidity, and increased risk of blowouts/landslides in drainage from roads or harvest. The Forest Service must fully analyze these risks, including using all relevant models. The Project must also include sufficient monitoring before, during, and after implementation to track any changes to water quality and quantity in Lookingglass Creek and its tributaries.

III. WILDLIFE

According to Table 1. Management Areas, over 32,000 acres in the Project area are Timber and Big Game designated as well as wildlife habitat and wilderness. This encompasses 68% of the treatment area. These areas are important habitat and migration corridors for elk and other wildlife whose habitat is already encroached upon.

The Tribe requests that the Forest comprehensively evaluate the Project's impacts to big game habitat use, including, but not limited to security, nutritional capacity, and human disturbance from access routes (all roads and trails and road density). This evaluation should include an analysis of both beneficial and adverse impacts based on the best available scientific information. The Tribe asks that the Forest consider the management and biological implications described in Ranglack et al. (2017), Rowland et al. (2018), and Wisdom et al. (2018), and the references therein, when describing the affected environment and predicting the environmental consequences of the proposed action and alternatives on big game.

IV. INVASIVE AND NOXIOUS PLANTS

The Tribe requests the Forest Service conduct an inventory of noxious species in the Project area and release a plan to prevent spread and new introductions with this Project. Timber sale contracts should require that contractors thoroughly wash heavy equipment used for Project work prior to beginning the job and again upon leaving the site. Disturbed areas should be seeded with an appropriate mix of desirable, native plant species to limit weed establishment. Annual weed control is also recommended until desired vegetation has been re-established.

V. Conclusion

The Nez Perce Tribe respectfully requests a formal written response to the Tribe's technical comments, including answers to the specific questions in these comments. We also request a staff-to-staff meeting with appropriate Forest Service staff to further discuss the Project and its potential impacts on the Tribe's Treaty-reserved rights and resources. Additionally, we request a tour with Forest staff of the Project area within the current field season, ideally within the next two months to ensure the Tribe has adequate opportunity to assess and engage with the Project before its Spring 2026 implementation.

The Tribe values its relationship with the Umatilla National Forest and remains committed to ensuring that all projects are fully aligned with the Tribe's Treaty rights and the federal government's trust obligations. We trust that the Forest Service will work in good faith with the Tribe to address these concerns and ensure that this Project is developed in a manner consistent with both the Tribe's cultural values and interests.