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Re: Canyon Forest Restoration Project

WildEarth Guardians respectfully submits these comments regarding the U.S. Forest Service's Preliminary Environmental Assessment (PEA) for the proposed Canyon Forest Restoration Project (Canyon Project) on the Hood Canal Ranger District of Olympic National Forest. According to the Forest Service, the overarching purpose and need for the Canyon Project is to "increase forest structural and wildlife habitat diversity and accelerate the development of late-successional forest characteristics, while contributing to the economic viability of local communities." PEA 3. The Forest Service proposes, among other activities, the following:

- 1,838 acres of commercial thinning for late-successional wildlife habitat improvement
- Up to 11.4 miles of temporary road construction
- Thinning 150 acres of smaller pole-size trees to restore late-successional forest
- 60 acres of small gap creation
- 61 acres of understory thinning to restore late-successional forest habitat
- 192 acres of precommercial thinning in young stands
- 26 miles of road reconstruction

PEA 4-5. Due to the potential for myriad significant environmental impacts from the Canyon Project as currently proposed, the Forest Service should prepare an environmental impact statement (EIS).

I. Legal Background

A. The National Environmental Policy Act (NEPA)

NEPA is "our basic national charter for protection of the environment." *Center for Biological Diversity v. United States Forest Serv.*, 349 F.3d 1157, 1166 (9th Cir. 2003) (quoting 40 C.F.R. § 1500.1 (2019)). In enacting NEPA, Congress recognized the "profound impact" of human activities, including "resource exploitation," on the environment and declared a national policy "to create and maintain conditions under which man and nature can exist in productive harmony." 42 U.S.C. § 4331(a). NEPA has two fundamental goals:

First, it places upon [a federal] agency the obligation to consider every significant aspect of the environmental impact of a proposed action. Second, it ensures that the agency will inform the public that it has indeed considered environmental concerns in its decisionmaking process. *Alliance for the Wild Rockies v. U.S. Forest Serv.*, 2025 WL 2655984, *1 (E.D. Wash., Sept. 16, 2025) (quoting *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1066 (9th Cir. 2002)).

“NEPA promotes its sweeping commitment to ‘prevent or eliminate damage to the environment and biosphere’ by focusing Government and public attention on the environmental effects of proposed agency action.” *Marsh v. Or. Natural Res. Council*, 490 U.S. 360, 371 (1989) (quoting 42 U.S.C. § 4321). Stated more directly, NEPA’s “‘action-forcing’ procedures . . . require the [Forest Service] to take a ‘hard look’ at environmental consequences” before the agency approves an action. *Metcalf v. Daley*, 214 F.3d 1135, 1141 (9th Cir. 2000) (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989)). “By so focusing agency attention, NEPA ensures that the agency will not act on incomplete information, only to regret its decision after it is too late to correct.” *Marsh*, 490 U.S. at 371 (citation omitted). To ensure that the agency has taken the required “hard look,” courts hold that the agency must utilize “public comment and the best available scientific information.” *Biodiversity Cons. Alliance v. Jiron*, 762 F.3d at 1086 (internal citation omitted).

NEPA’s review obligations are more stringent and detailed at the project level, or “implementation stage,” given the nature of “individual site specific projects.” *Ecology Ctr., Inc. v. United States Forest Serv.*, 192 F.3d 922, 923 n.2 (9th Cir. 1999); *see also Friends of Yosemite Valley v. Norton*, 348 F.3d 789, 800-01 (9th Cir. 2003); *New Mexico ex rel. Richardson v. Bureau of Land Management*, 565 F.3d 683, 718-19 (10th Cir. 2009) (requiring site-specific NEPA analysis when no future NEPA process would occur); *Colo. Env’tl. Coal. v. Ofc. of Legacy Mgmt.*, 819 F. Supp. 2d 1193, 1209-10 (D. Colo. 2011) (requiring site-specific NEPA analysis even when future NEPA would occur because “environmental impacts were reasonably foreseeable”). “[G]eneral statements about possible effects and some risk do not constitute a hard look, absent a justification regarding why more definitive information could not be provided.” *Or. Natural Res. Council Fund v. Brong*, 492 F.3d 1120, 1134 (9th Cir. 2007) (citation omitted); *see also Or. Natural Res. Council Fund v. Goodman*, 505 F.3d 884, 892 (9th Cir. 2007) (holding the Forest Service’s failure to discuss the importance of maintaining a biological corridor violated NEPA, explaining that “[m]erely disclosing the existence of a biological corridor is inadequate” and that the agency must “meaningfully substantiate [its] finding”).

NEPA requires site-specificity to fulfill NEPA’s twin aims of informed decisionmaking and meaningful public participation. *Stein v. Barton*, 740 F. Supp. 743, 749 (D. Alaska 1990). Federal courts apply these touchstone criteria when evaluating whether a NEPA document is adequately site-specific. *See WildEarth Guardians*, 790 F.3d at 921-25 (holding EIS inadequate for failure to disclose the location of moose range); *Or. Nat. Desert Ass’n v. Rose*, 2019 WL 1855419 (9th Cir. 2019) (holding environmental analysis violated NEPA by failing to establish “the physical condition of [roads and trails] and authorizing activity without assessing the actual baseline conditions”).

Analyzing and disclosing site-specific impacts is critical because where (and when and how) activities occur on a landscape strongly determines the nature of the impact. As the Tenth Circuit Court of Appeals has explained, the actual:

location of development greatly influences the likelihood and extent of habitat preservation. Disturbances on the same total surface area may produce wildly different impacts on plants and wildlife depending on the amount of contiguous habitat between them.

New Mexico ex rel. Richardson, 565 F.3d at 706. The Court used the example of “building a dirt road along the edge of an ecosystem” and “building a four-lane highway straight down the middle” to explain how those activities may have similar types of impacts, but the extent of those impacts – in particular on habitat disturbance – is different. *Id.* at 707. Indeed, “location, not merely total surface disturbance, affects habitat fragmentation,” and therefore location data is critical to the site-specific analysis NEPA requires. *Id.* Merely disclosing the existence of particular geographic or biological features is inadequate – agencies must discuss their importance and substantiate their findings as to the impacts. *Or. Natural Res. Council Fund v. Goodman*, 505 F.3d 884, 892 (9th Cir. 2007).

B. The National Forest Management Act (NFMA)

Under NFMA, the Forest Service is charged with “the management of national forest land, including for the protection and use of the land and its natural resources.” *All. For the Wild Rockies v. U.S. Forest Serv.*, 907 F.3d 1105, 1109 (9th Cir. 2018). Accordingly, the Forest Service is required to “develop, maintain, and, as appropriate, revise land and resource management plans” for each national forest. 16 U.S.C. § 1604(a). Implementation of site-specific projects “shall be consistent with the land management plans.” 16 U.S.C. § 1604(i).

In developing and implementing land management (or forest) plans, the Forest Service is required to “mak[e] the most judicious use of the land.”¹ Such use must be done “without impairment of the productivity of the land.”² The Forest Service is prohibited from adopting management practices because they “will give the greatest dollar return or the greatest unit output.”³

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.”⁴

¹ 16 U.S.C. § 531(a).

² *Id.*

³ *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”).

⁴ 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. 3) (as of 2018, 88% of annual

Understanding this, and recognizing the importance of federally-owned forests for non-timber purposes, Congress required the Forest Service to “reduce pressures for timber production from Federal lands.”⁵ This must inform how the Forest Service views its public trust obligations in managing our national forests.

C. The Endangered Species Act (ESA)

The ESA commands all federal agencies to “seek to conserve endangered species and threatened species and . . . utilize their authorities in furtherance of the purposes of” the Act. 16 U.S.C. § 1531(c)(1). Its purpose is to “provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, [and] to provide a program for the conservation of such endangered and threatened species[.]” *Id.* § 1531(b). The ESA is intended not just to forestall extinction, but to allow species to recover to the point where they may be delisted. Federal agencies are thus mandated to work towards recovery of protected species. *Id.* §§ 1532(3) (defining “conservation” to mean both survival and recovery of species), 1536(a)(1) (requiring agencies to work towards species’ recovery). To implement these sweeping policy goals, the ESA imposes a series of interrelated substantive and procedural obligations on all federal agencies.

1. Substantive Section 7 Obligations

Section 7(a)(2) of the ESA imposes a substantive duty upon each federal agency to ensure that any action authorized, funded, or carried out by such agency is not likely to (1) jeopardize the continued existence of any threatened or endangered species, or (2) result in the destruction or adverse modification of the critical habitat of such species. *Id.* § 1536(a)(2). To “jeopardize the continued existence of” a species means to “engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.” 50 C.F.R. § 402.02. “Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.” *Id.*

Section 7(a)(1) creates a further, related duty, requiring each agency to implement programs for the conservation of threatened and endangered species. 16 U.S.C. § 1536(a)(1). Agencies are specifically commanded to use “all methods and procedures which are necessary to bring any endangered species . . . to the point at which the measures provided pursuant to [the ESA] are no longer necessary.” *Id.* § 1532(3). In other words, every agency must affirmatively work towards both the survival *and the recovery* of protected species. This substantive duty applies at all times, regardless of whether the ESA’s other provisions have been triggered.

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.

⁵ 16 U.S.C. § 1600(7).

2. Section 9 Take Prohibition

Section 9 of the ESA prohibits any entity, including federal agencies, from “taking” members of a listed species, broadly defined as “harass, harm, wound, kill, trap, capture, or collect any members of the species, or to attempt to engage in any such conduct.” *Id.* §§ 1538(a)(1), 1532(19). “Harm,” in turn, encompasses “significant habitat modification or degradation.” 50 C.F.R. § 17.3. This prohibition extends to incidental takings, which “result from, but are not the purpose of, carrying out an otherwise lawful activity.” *Id.* § 402.02. A reasonable certainty that unlawful take is imminent warrants preemptive injunctive relief—the ESA does not require citizens or courts to wait until the damage has been done until they act.

3. Section 7 Consultation

To implement these substantive provisions, ESA § 7 imposes a procedural requirement obligating any federal agency proposing an action (the “action agency”) to consult with—as relevant here—the USFWS to evaluate the proposed action’s effects on every listed species present in the project area. 16 U.S.C. § 1536(a)(2). Agency actions requiring consultation are construed broadly and encompass “all activities or programs of any kind authorized, funded, or carried out, in whole or in part, by Federal agencies,” including “actions directly or indirectly causing modifications to the land, water, or air.” 50 C.F.R. §§ 402.02, 402.3. Consultation is required both for individual projects and for the promulgation of broader management plans.

The USFWS is not permitted to base its compliance with the ESA on speculation or surmise. Instead, it must “use the best scientific and commercial data available” in assessing impacts to protected species during the consultation process. 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.14(d).

If ESA-listed species may be present in the area of proposed agency action, the action agency first must prepare a biological assessment (“BA”) to determine whether such species may be affected. *See* 16 U.S.C. § 1536(c)(1); 50 C.F.R. § 402.12. If the agency determines that its action “may affect” any listed species, it must formally consult with the USFWS. *Id.* § 402.12. The threshold for a “may affect” determination is very low: Consultation must occur if “a proposed action may pose *any* effects on listed species or designated critical habitat.” U.S. Fish and Wildlife Serv. & Nat’l Marine Fisheries Serv., *Endangered Species Consultation Handbook: Procedures for Conducting Consultation and Conference Activities Under Section 7 of the Endangered Species Act* at xvi (1998) (emphasis in original). Both direct and indirect effects are relevant to this determination. 50 C.F.R. § 402.02.

If the action agency concludes that the activity may affect, but is not likely to adversely affect, the listed species or adversely modify its critical habitat, and the USFWS concurs with that determination, the consultation is complete. 50 C.F.R. §§ 402.12, 402.14(b). If, however, the action agency concludes that the activity is likely to adversely affect the listed species, the USFWS must prepare a biological opinion (“BiOp”) to determine whether the activity will jeopardize that species’ continued existence. *Id.* § 402.14. The BiOp must include a summary of the information on which it is based, a detailed discussion of the effects of the action on listed species or critical habitat, and the USFWS’s opinion on whether the action is likely to jeopardize

the species or result in destruction or adverse modification of critical habitat. 16 U.S.C. § 1536(b)(3)(A); 50 C.F.R. § 402.14(h).

If the USFWS concludes that the proposed action will not result in jeopardy but may incidentally take members of a protected species, it will provide the action agency with an incidental take statement (“ITS”). The ITS shields the action agency from liability under Section 9 for any incidental take resulting from the proposed action—as long as the agency complies with its terms. 50 C.F.R. §§ 402.02; 4102.14(i). An ITS must articulate: (1) the amount of incidental take authorized and its impact on the species; (2) “reasonable and prudent measures” to minimize such impacts; and (3) mandatory terms and conditions to implement the reasonable and prudent measures. 16 U.S.C. §§ 1536(b)(4)(i)–(iv). If the action agency fails to implement the terms and conditions, or exceeds the level of take identified in the ITS, it becomes liable under Section 9 for any subsequent take resulting from its actions and must reinitiate consultation with the USFWS. 16 § 1536(2)(B)(3), (4); 50 C.F.R. § 402.14(g)(7).

The ITS should, whenever practical, express take as a specific cap on the number of individual members of a species taken. The USFWS may instead employ a take surrogate—a way of defining take by the amount of adversely affected habitat rather than by the number of individuals harassed or killed—in certain defined circumstances. *See* 50 C.F.R. § 402.14(i)(1)(i). First, it must describe “the causal link between the surrogate and take of the listed species.” *Id.* A “causal link” is an articulated, rational connection between the activity and the taking of species. The USFWS must also explain why it is not practical to express the amount or extent of anticipated take or to monitor take-related impacts in terms of individuals of the listed species. *Id.* The agency typically relies on surrogates when the incidental take is “difficult to detect,” which occurs “when the species is wide-ranging; has small body size; finding a dead or impaired specimen is unlikely; losses may be masked by seasonal fluctuations in numbers or other causes (e.g., oxygen depletions for aquatic species); or the species occurs in habitat (e.g., caves) that makes detection difficult.” USFWS, *Procedures for Conducting Consultation and Conference Activities under § 7 of ESA* 4-52 (Mar. 1998). Finally, the take surrogate must set “a clear standard for determining when the level of anticipated take has been exceeded.” 50 C.F.R. § 402.14(i)(1)(i). This last requirement is necessary to determine whether the agencies must reinitiate consultation on the action.

4. Duty to Reinitiate Consultation

The agencies’ Section 7 duties do not end with the issuance of a BiOp. The USFWS and action agency must consult on the impact of an action before it occurs and—just as importantly—reconsult on the activity and respond appropriately when new information emerges. If it fails to comply with this duty, an action agency may unwittingly cause, and be held liable for, jeopardy to a protected species, adverse modification of its critical habitat, and/or unlawful take of the species’ individual members. To this end, agencies must reinitiate consultation on an ongoing project if certain “triggers” occur. *See id.* § 402.16. This obligation falls on both the action agency and the consulting agency.

Reconsultation is mandatory where discretionary federal involvement or control over the relevant action has been retained or is authorized by law and, as relevant here, “a new species is listed or critical habitat designated that may be affected by the identified action.” *Id.* § 402.16.

After consultation is initiated or reinitiated, ESA Section 7(d) prohibits the action agency from “mak[ing] any irreversible or irretrievable commitment of resources” toward a project that would “foreclos[e] the formulation or implementation of any reasonable and prudent alternative measures[.]” 16 U.S.C. § 1536(d). The ESA § 7(d) prohibition “is in force during the consultation process and continues until the requirements of section 7(a)(2) are satisfied.” 50 C.F.R. § 402.09.

Strict compliance with these procedural duties is necessary for an agency to fulfill its substantive duties, and for the ESA to fulfill its fundamental purposes. Without accurate, detailed, and current consultation on its actions, an agency may unwittingly push vulnerable species past the point of recovery.

COMMENTS

The Forest Service needs to add enforcement measures to address rampant illegal activities to the purpose and need.

Before addressing the substance of the PEA, Guardians wishes to address a significant issue that is not mentioned by the Forest Service but is pervasive throughout the project area: the scale of illegal activities, including garbage dumping and off-road vehicle (ORV) use. During a November 8, 2025 site visit, Guardians documented extensive garbage dumping in the project area. *See* Exhibit 1. At one of the garbage dump sites, illegal ORV activity created extensive soil damage and deep rutting. *Id.* at 2-4. All of this was in about 0.5-mile stretch of FR 2870000 and 2870030.

The scale of illegal activities occurring in this area is shocking and indicates a lack of enforcement by the Forest Service. If the agency’s lack of enforcement is such that it allows this level of disregard for forest resources, how is the public to have any confidence that “implementation, effectiveness, and validation monitoring [will be] conducted throughout the longevity of the proposed action[?]” PEA 15. Instead of proposing thousands of acres of logging in this area, the Forest Service’s top priority should be cleaning up the project area and increasing enforcement to deter future illegal dumping and ORV use. At a minimum, the Forest Service should add this to the purpose and need.

The Forest Service must prepare an EIS.

The Forest Service relied on the analysis contained in six specialist reports to support the PEA. In several of these reports, the specialist provided two questions at the outset of the report:

- Is there potential for a significant effect to [the resource at issue] from the proposed activities?
- Would project effects approach a threshold for your resource?

In three of these reports, the answer to both questions is “yes.”⁶ This alone suggests that preparation of an EIS is appropriate for this project.

The Forest Plan requires that “[m]anagement activities shall be designed to minimize soil disturbance and maintain or enhance long term soil productivity.” Forest Plan IV-52. The Forest Plan also requires that “[d]etrimental soil conditions should not exceed 20 percent of the total acreage within the timber sale activity area, including landings and system roads.” *Id.* The PEA does not provide sufficient information in order to determine whether soil disturbance will be minimized. Nor does the PEA provide sufficient information to determine whether long-term soil productivity will be maintained (much less enhanced) or that detrimental soil conditions will not exceed 20 percent.

The Forest Service does acknowledge that the “majority of soils within the Canyon Forest Restoration Project area are *particularly susceptible* to compaction, displacement, and rutting from ground disturbing activities.” Soils Report 6 (emphasis added). Indeed, 87.85% of the project area has a “soil disturbance risk” rating of “high.” *Id.* at 11-12. In addition, a majority of the stands where ground-based yarding activities are proposed are “located on landforms and soil map units that are *highly sensitive* to heavy equipment.” *Id.* (emphasis added). The likelihood of significant, long-term detrimental impacts to soils in the project area is self-evident:

To recover proper soil functioning following a disturbance, soils often take on the magnitude of *hundreds to thousands of years* to recover, depending on site specific conditions, but if impacts are severe enough there may be no recovery to pre-harvest productivity without external intervention and restoration activities.

Soils Report 15. In light of this, the Forest Service must disclose to the public how it determined baseline soil disturbance and how it will “minimize” further soil disturbance and “maintain or enhance long term soil productivity.” Forest Plan IV-52. The PEA does not do this.

For example, in determining baseline soil disturbance for the project area, the Forest Service says that it used (1) field inspections and (2) Lidar analysis in conjunction with historical aerial imagery to produce pre-existing soil disturbance acreages. PEA 14. The Forest Service claims that this information “can be reviewed for each proposed stand in Appendix B Table 1.” *Id.* However, this information is not provided in Appendix B nor anywhere else in the PEA. Without this information, the public has no ability to verify the Forest Service’s conclusions regarding baseline conditions.

This information is important to disclose since there are at least a few “individual activity areas [that] will very likely be close to the 20% threshold due to pre-existing soil disturbance related to legacy logging impacts, road prisms, and old temp/decommissioned roads.” Soils Report 15 (*see also* Table 1 below).

⁶ See Botany and Weeds Report 1, Soils Report 4, and Wildlife Report 3.

Table 1: Soil Disturbance (Before and After) for Stands with Greater Than 8% Pre-Existing Soil Disturbance.

| Stand | % Pre-Existing Soil Disturbance | Logging System | % Post-Implementation Soil Disturbance⁷ |
|--------------|--|-----------------------|---|
| E17 | 10.98 | Cable | 14.98 |
| G188 | 9.08 | Ground | 19.08 |
| E119 | 8.93 | Ground | 18.93 |
| G215 | 8.16 | Ground Poles | 18.16 |

It appears from Table 1 that the Forest Service selected a cable logging system for Stand E17 because if it used a ground-based system, it would exceed the 20% threshold for detrimental soil impacts. This is an acknowledgment that the Forest Service can further reduce impacts to soils if cable logging is used in place of ground-based systems. The Forest Service should consider an alternative to utilize cable systems for other units in order to “minimize soil disturbance and maintain or enhance long term soil productivity.”⁸ Forest Plan IV-52. This is particularly relevant for Adaptive Management Area stands currently proposed for ground-based systems. *See* Northwest Forest Plan Standards and Guidelines, C-22 (“Adaptive Management Areas were selected to provide opportunities for innovation . . . and provide a range of technical challenges”).

The Forest Service also needs to explain how it determined that there would be an additional 4% and 10% detrimental soil conditions for cable system stands and ground-based system stands, respectively. Without seeing how the Forest Service arrived at these percentages, it is impossible for the public to determine their accuracy. And if these figures are inaccurate, then it is likely that the Forest Service could exceed the 20% threshold for detrimental soil conditions in these and other stands.

Before bringing in heavy equipment into these areas that could detrimentally impact soils for “hundreds to thousands of years,” the Forest Service needs to prepare an EIS to better explain how it determined baseline soil conditions as well as additional soil disturbance percentages for the various logging systems. That EIS should consider an alternative that utilizes cable logging on all soils rated high risk for soil disturbance. In addition, the Forest Service should include an objective to “maintain or enhance soil productivity” as a specific PDC and describe how that objective will be met through project implementation.

No Action

The Forest Service did not sufficiently analyze the No Action alternative for meeting the purpose and need of the project. According to the Forest Service, “[w]hile growth along a successional

⁷ *See* Soils Report at 14 (additional 4% detrimental soil conditions for cable units and additional 10% detrimental soil conditions for ground-based units).

⁸ *See e.g.*, Erber and Spinelli (2020). Timber extraction by cable yarding on flat and wet terrain: a survey of cable yarder manufacturer’s experience. *Silva Fennica*, Vol.54(2) 10211. (Ex. 4). <https://www.silvafennica.fi/article/10211>.

pathway will occur even if no actions are taken at this time, it would take many more years for natural disturbances and natural competition to create the desired patchiness and structure associated with late-successional forest.” PEA 3. Elsewhere, the Forest Service claims that without the proposed action, it may take “many decades” to develop a multi-storied canopy and understory shrub and herb layer. *Id.* at 14.

At no point does the Forest Service reasonably compare the proposed action and the No Action alternative for meeting the purported objectives. For example, while the Forest Service’s claim that taking no action would allegedly delay the development of late-successional forest characteristics for “many decades,” it does not consider the tradeoff of avoiding detrimental soil impacts that can last “hundreds to thousands of years.”⁹ At a minimum, the Forest Service needs to better compare the proposed action with no action so that the public has a better understanding of each in order to provide meaningful engagement.

Lack of Information

According to the Forest Service, the project area is in the following management areas under the Forest Plan for the Olympic National Forest, as amended by the Northwest Forest Plan:

- Olympic Forest Plan
 - Timber Management
 - Botanical Research Areas
 - Municipal Watershed
 - Northern Spotted Owl Habitat
 - Wild and Scenic River
- Northwest Forest Plan
 - Late-successional Reserve
 - Adaptive Management Area
 - Riparian Reserve

PEA 3. However, the Forest Service only provided a map for the land-use allocations under the Northwest Forest Plan. The Forest Service should either extend the comment period or prepare a revised PEA or Draft EIS disclosing the Olympic Forest Plan management area designations within the project area.

The Forest Service should also provide the “spreadsheet and map of culvert replacement needs.” PEA 14. This is important because initially, there was concern about the “number of culverts in need of replacement” on project feasibility. *Id.* However, the spreadsheet and map were created after additional field reconnaissance with the Forest Engineer concluding that “some but not all the culverts” that were previously identified as “needs replaced” actually need to be replaced prior to project implementation. *Id.* This is a potentially significant issue as the Forest Service could be delaying needed culvert work until after the project, which could increase impacts to water resources and fisheries, including critical habitat for bull trout. The Forest Service needs to

⁹ See PEA 14 and Soils Report 15.

disclose the spreadsheet, map, and related information about the “needs replaced” culverts in a revised PEA or Draft EIS.

Unroaded Areas

In response to Guardians’ scoping comments to identify the protection and restoration of roadless and unroaded areas in the purpose and need, the Forest Service responded:

When the project was developed, restoration of unroaded or roadless areas was not included. This was not a ‘landscape wide look’ at restoration opportunities.

PEA 11. First, the Forest Service does not address “protection” of unroaded areas within the project area at all. Second, the Forest Service mischaracterized Guardians’ comment by suggesting we requested a “landscape wide look” at restoration of unroaded areas. We did not. Rather, Guardians specifically requested the Forest Service to “identify roadless/unroaded areas *within and adjacent to the project area* that may be impacted by the project and could be restored and/or expanded through project implementation.” Scoping Comments 8 (emphasis added). It is also worth noting that this is the Canyon Forest *Restoration* Project in which the Forest Service is proposing 1,838 acres of commercial logging to “*Restore* Late-successional Forest.” *Id.* at 5 (emphasis added). The Forest Service is also proposing to install culverts and aquatic organism passage structures to “maintain or *restore* access to habitat[.]” *Id.* at 11 (emphasis added). Restoration of unroaded areas would decrease habitat fragmentation and erosion/sedimentation and should be considered in the purpose and need.

The Forest Service should reconsider an alternative to drop stands that regenerated from wildfire. Alternatively, the Forest Service should consider an alternative that prohibits ground-based logging systems in these stands.

According to the Forest Service, it did not consider an alternative to drop stands that regenerated from wildfire because it “would not meet the purpose and need” for the project. PEA 12. However, such an alternative would not prevent the Forest Service meeting its objectives on previously clearcut stands. The fact that the Forest Service would not achieve 100% of what it set out to do does not make an alternative unreasonable and not worth considering.

The Forest Service’s rationale for not considering such an alternative is unreasonable. For example, the Forest Service acknowledges that only “some of the stands” that regenerated from fires “display signs of past management” and that only “some management occurred” following these fires. *Id.* The Forest Service also admits that the age of the stands regenerated from wildfires is “older and somewhat more variable compared to the previously clearcut stands” and include “legacy patches.” *Id.* Moreover, “[t]ree species composition is also more variable in wildfire-created stands than stands that developed after clearcut.” *Id.* In other words, it appears that the stands that regenerated from wildfire are already displaying the characteristics of late-successional forests.

This was apparent during a recent site visit to two of these older stands – G32 and F193. According to the Forest Service, Stand G32 dates back to 1860 (165 years-old) and Stand F193 dates back to 1880 (145 years-old). *See* PEA, App. A, Table 2. Both stands serve as

“representative stands” for other project area stands with similar characteristics. Stand G32 is representative for Stands G48 and G132 and Stand F193 is presentative for Stand F6. *Id.* at Table 1.

Photos of Stands G32 and F193 are included in Exhibit 2. In the Forest Service’s scoping document, it included two photos, one representing stands where “action is needed” to advance toward late-successional characteristics (Scoping Document 3) and the other representing stands that already contain late-successional characteristics (Scoping Document 4). Comparing the photos of Stands G32 and F193 indicates that they appear more like the latter example than the former. If these stands are already exhibiting late-successional forest characteristics, there is no need for the Forest Service to “speed up” that process.

Part of the problem for including the older stands that regenerated from fire is evident in the Silviculture Report. For example, the Forest Service relies on two studies to support the use of the proposed thinning in this project. The first is a 2006 study on the Siuslaw National Forest where researchers claimed that stands where variable density thinning was applied demonstrated that “lower residual overstory densities result in better responses in overstory and understory growth.” Silviculture Report 4 (citing Chan et al. 2006). The second is a 2010 study on the Olympic Peninsula where researchers claimed that variable density thinning “resulted thus far in stands that are developing late successional forest features faster than untreated stands with higher tree growth and more understory plant growth.” *Id.* (citing Comfort et al 2010). However, there are important differences between these studies and the Canyon Project Area.

For example, all three stands in the Siuslaw study were plantation stands that regenerated from clearcuts and ranged in age from 30-35 years-old. *See* Chan 2006 at 2697. Similarly, all of the stands in Comfort 2010 also regenerated from previous clearcuts and ranged in age from 46 – 74 years-old. *See* Comfort 2010 at 1607-08.

As Table 2 below shows, none of the representative stands in the Canyon Project area are as young as the stands in Chan 2006, the closest being G214 (47 years-old). Only four of the representative stands (E107, E22, G214, and H38) fall within the age range of the stands in Comfort 2010 (highlighted).

Table 2: Stand Stratification and Representative Stand Age.

| Representative Stand | Age (2025) | Strand Strata |
|-----------------------------|-------------------|---|
| E107 | 67 | E47, E48, E102, E105, E107, E108, E109, E115, E118, E119, E125, E133, E231 |
| E22 | 65 | D50, D92, D103, D105, D128, E15, E17, E19, E20, E21, E22, E25, E28, E29, E41, E42 |
| F16 | 145 | F16, F44, F166 |
| F193 | 145 | F6, F193 |

| | | |
|-------|-----|---|
| G214 | 47 | G18, G19, G208, G209, G211, G214, G215 |
| G222 | 145 | G21, G134, G145, G147, G173, G188 |
| G232 | 112 | G2, G232 |
| G32 | 165 | G32, G48, G132 |
| G33 | 105 | G33 |
| G44 | 105 | G44 |
| G58 | 165 | G58, G110 |
| H38 | 61 | G61, H22, H38, H45, H49, H54, H55, H57, H59, H143 |
| H39a | 97 | H39a, H131 |
| H130 | 97 | H6, H20a, H20b, H24a, H24b, H130 |
| H136b | 115 | H25a, H25b, H118, H131, H136a, H149 |

The Forest Service’s reliance on Chan 2006 and Comfort 2010 to support thinning in much older stands is inappropriate, particularly where those stands have already developed characteristics of late-successional forests. Older stands, particularly those that have never been logged before, should be dropped from the proposal.

Northern Spotted Owl and Marbled Murrelet

In light of the Forest Service’s use of studies on younger stands to support thinning in much older stands, Guardians is concerned that the agency’s analysis regarding impacts to northern spotted owl and marbled murrelet is flawed. There are four historic northern spotted owl home range territories in the project area. PEA 15. If approved, the project would degrade 112 acres of foraging habitat, degrade 1,988 acres of dispersal habitat, and remove 25 acres of dispersal habitat. *Id.* Regarding marbled murrelet, the project area contains 1,205 acres of critical habitat and the proposed thinning would degrade 993 acres (82%) in the short-term and temporary road construction would remove 11 acres of buffer stands. *Id.* at 16. In light of the fact that the Forest Service relied on studies that analyzed thinning in much younger stands, the agency could be undercounting the short- and long-term effects to these species.

Executive Order 14225 violates NFMA.

The Forest Service is required to “mak[e] the most judicious use of the land.”¹⁰ Such use must be done “without impairment of the productivity of the land.”¹¹ The Forest Service is prohibited

¹⁰ 16 U.S.C. § 531(a).

¹¹ *Id.*

from adopting management practices because they “will give the greatest dollar return or the greatest unit output.”¹²

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.”¹³ Congress also required the Forest Service to “reduce pressures for timber production from Federal lands.”¹⁴ 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,” EO 14225 does the exact opposite by mandating the Forest Service “fully exploit[s] our domestic timber supply” and “facilitate[s] increased timber production” from National Forest lands in a manner that “reduce[s] time to deliver timber” to market.¹⁵ This incessant push for the “immediate expansion” of timber production from National Forests is impermissibly based on what “will give the greatest dollar return or the greatest unit output” of timber in violation of NFMA. And with so much of the Forest Service staff cut this year, the agency cannot ensure that this “immediate expansion” of logging is being done “without impairment to the productivity of the land.”

Travel Management

Guardians reiterates our scoping comments and requests that the Forest Service specifically identify roads for decommissioning. The Forest Service only states that “roads identified for decommissioning in the [Dungeness Watershed Roads Management Project] would be decommissioned.” PEA 7. We appreciate the commitment to decommission these roads, which were approved for decommissioning six years ago. But there are more roads that have been identified for decommissioning in this area and should have been included in the PEA. This dovetails with our comments above for restoration of unroaded areas and demonstrates why it should be part of the purpose and need.

The Forest Service also needs to limit the development of temporary roads. The Forest Service should not construct any temporary roads on soils with a high risk of disturbance and/or in stands that have not been previously disturbed by heavy machinery and equipment.

¹² *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”).

¹³ 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. 3) (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.

¹⁴ 16 U.S.C. § 1600(7).

¹⁵ EO 14225.

Conclusion

In light of the significant impacts almost certain to occur through project implementation, the Forest Service needs to prepare an EIS for the Canyon Forest Restoration Project. In particular, there will be significant soil impacts from extensive ground-based logging systems on soils rated a high risk for disturbance. The Forest Service does not demonstrate how soil productivity will be maintained or enhanced and there is high potential for the agency to exceed the 20% threshold for detrimental soil disturbance.

There is also a lack of information in the PEA and an inadequate analysis of the No Action alternative. The Forest Service should also consider an alternative that drops stands that regenerated after wildfire and/or prohibits ground-based logging systems in these stands. The Forest Service should also look for additional opportunities for road decommissioning and strictly limit the construction of temporary roads.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "Ryan Talbott", written over a horizontal line.

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