Kettle Range
CONSERVATION GROUP

December 4, 2025

Regional Forester, Objection Reviewing Officer
Pacific Northwest Region 6
USDA Forest Service
Attn: 1570 Appeals and Objection
1220 SW 3rd Ave
Portland, Oregon 97204

Via Electronically: https://cara.fs2c.usda.gov/Public/CommentInput?project=63933

Re: OBJECTION – Midnight Restoration Project Final EA / draft Decision Notice and Finding of No Significant Impact (FONSI)

Objection Reviewing Officer:

Please accept this Objection filed on behalf of the board and membership of the Kettle Range Conservation Group. Implementation of proposed actions authorized by the Environmental Assessment (EA), Draft Decision Notice (DDN) and Finding of No Significant Impact (FONSI) for Alternative 2, will harm members of KRCG as they are directly and significantly affected by loss of biological diversity, solitude, degradation of beautiful natural forest scenery, wildlife habitat and recreation in the Okanogan-Wenatchee National Forest (OWNF).

Pursuant to 36 CFR §214 and 36 CFR Part 218, Subparts A and B, 218.8(d), KRCG (Kettle Rangers or Objector), seeks the withdrawal of the Project. This Objection challenges the U.S. Forest Service (FS) Environmental Assessment (EA) draft Decision Notice (DDN) and Finding of No Significant Impact (FONSI) signed by ONF-WNF for the Midnight Restoration Project for the reasons described herein.

The 53,009-acre project area is located on the Methow Valley Ranger District west/northwest of Twisp, WA, within portions of the Twisp River, Rader Creek, and Wolf Creek sub watersheds. Midnight Restoration proposes both overstory vegetation treatments (commercial thinning) and understory vegetation treatments (non-commercial small tree thinning). Prescribed fire, and road management are also proposed. Treatments would occur in Matrix, Forest Plan Old Growth, Late Successional Reserves, Riparian Reserves, and the Sawtooth Inventoried Roadless Area. Up to 4,051 acres in Late Successional Reserve and 374 acres in Riparian Reserve would be commercially thinned. No commercial thinning is proposed in Inventoried Roadless Area (IRA), but non-commercial small tree thinning and prescribed fire would occur on up to

3,697 acres of IRA. A maximum of 5,904 acres (all within Matrix) could receive commercial treatments using condition-based management including removal of large diameter trees. In total, the Forest Service is proposing up to 11,374 acres of commercial logging, and up to 13,895 acres of non-commercial small tree thinning in the Midnight Restoration Project.

To accomplish the alleged forest "restoration" the project includes Forest Plan amendments to the Okanogan National Forest Land and Resource Management Plan (LRMP) that would temporarily suspend specific Standards and Guidelines (S&G) related to treatment in Forest Plan Old Growth, temporarily plowing designated snowmobile routes, and a reduction in S&G in deer winter range for the duration of project activities anticipated to last 20 years.

The Proposed Action Alternative 2 selected for the Midnight Restoration Project (Project) as analyzed in the EA, DDN and FONSI will, coupled with past, present and foreseeable future projects, have a significant cumulative impact on the environment. Thus, the FONSI is erroneous.

Without a hint of concern, the LRMP amendments to this project brazenly pretend that LRMP S&G can simply be ignored because of wildfire risk. That FS wildfire risk assessment is not supported by best available science, and is predicated on an arbitrary assessment of recent wildfires harm wildlife and aquatic species, ignoring the variability of wet / dry climate cycles in the last 100 years – a similar timeframe as used for determining Historic Range of Variability (HRV) -- in contravention of the very reason the S&G were created in the first place: lack of large diameter trees across Region 6 USFS.

Across Region 6 USFS and beyond, the size of trees is not the main issue driving forest logging, it is how many trees per acre, species mix and frankly, to cut timber volume.

This and other projects' oversimplification that a few thousand acres of logging has no significant impact at spatial and temporal scale is little like suggesting siphoning off the entirety of Wolf Creek into a pipeline sending it to Omak would have an insignificant impact on flow of the Columbia River. This logic dilutes the local impact and leads to ecosystem death by a thousand cuts.

The fact is environmental impacts of this and other nearby projects combined with a century of big tree targeted logging including 50 years within the project area, resultant fragmentation of wildlands by roads, fences, human development & recreation has led to myriad endangered species. The Midnight Project will have active, ground-disturbing, machinery noise and human presence that directly impacts habitat and habitat suitability for an ESA-listed wildlife and to the recreation experience for 20 years. Changes to forest structure, recreation, soils, native plants and wildlife altered by logging, road reconstruction / closure, noxious weed spread and slash. Post-logging fuels

treatment increases wildfire risk of escapement during broadcast and pile burning. Moreover, widespread disturbances across the entire region are not accounted for in project NEPA documents. The Okanogan-Wenatchee LRMP did not assess site-specific ecological impacts of this, several nearby wildfires and a plethora of other logging projects that far exceed those listed in the EA, Specialists Reports DDN/FONSI.

As our name implies, Kettle Rangers are a hardy dedicated bunch with a long and successful history building coalitions, organizing hikes, trail construction and maintenance, whitebark pine restoration, participation in Forest Plan revision, challenging project decisions and a two decades-long commitment to working collaboratively with Forest Service and timber industry – that has taught us much.

We believe the EA, DDN and FONSI were reached in error pursuant to the National Forest Management Act (NFMA), the 1989 Okanogan-Wenatchee Land Management Plan (LRMP), National Environmental Policy Act (NEPA), Endangered Species Act (ESA), Administrative Procedure Act (APA) and Title IV of the Omnibus Public Lands Management Act of 2009.

As required by 36 C.F.R. § 218.8(d), the objector's name, address, and telephone number are listed in the signature below. I apologize for any errors – there is just one of me not a staff of contributors & reviewers to peruse this missive.

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PROJECT AREA DESCRIPTION

The Project area lies in the heart of the majestic Sawtooth Mountains, a remote landscape that features mountain peaks rising over 8,000 feet, towering forests of old-growth Douglas fir, silver fir, ponderosa pine, western larch, western red cedar, Engelmann spruce, sub alpine fir, lodgepole pine, whitebark pine and hardwood species red alder, quaking aspen, Douglas and vine maple and cottonwood; shrub-steppe & sagebrush meadows, and countless lakes, rivers, creeks, streams, and wetlands. The Project area features one of the finest hiking trails in the region, providing wilderness-quality solitude, dark night skies, sweet air and spectacular mountain scenery in every direction. The Project's area inventoried roadless areas and eastern Cascade Mountains comprise the wildest, most remote region of the Okanogan-Wenatchee National Forest.

Twisp River and adjacent watersheds contain a mix of Pacific and Rocky Mountain forest species. Prior to the 1950s, project area was primarily comprised of late and old structure forest occasionally mixed with fire-regenerated lodgepole pine and treeless rock balds. Fifty years of logging ancient forests, livestock grazing and fire exclusion led to thickets of younger forests and some stands of ancient forest old growth. However, areas within designated Wilderness also contain a mix of young and old forest, thickets and magnificent Late and Old Structure (aka old growth) forest. This is what Historic Range of Variability look like.

A central stated purpose this project is forest restoration and wildfire risk reduction. The track record of the U.S. Forest Service, et al, regarding preventing severe wildfire is not good and there are numerous examples of severe wildfires occurring in areas that had previously received fuel treatment, up to 60-100% forest canopy reduction.

In the summer of 2015, five wildfires converged forming the Okanogan Complex Wildfire. Fires were lightning and human-caused (eastern) burning initially north of Nespelem through shrub-steppe when high wind & temperatures during dry August conditions combined to cause massively expanded wildfire. Forests in the fire area had been thinned, clearcut and treated with prescribed and natural fire. Despite both non-forest and extensively managed forest this became the largest wildfire in Washington history, the eastern part burning primarily in a northerly direction that by August 27 was twelve miles north of the Colville Reservation and 8 miles wide. This fire continued to burn to the north despite upwards of 650 firefighters attempting to control it and was finally extinguished by rainfall about mid-October. All the logging in the world would not have prevented this climate-driven event.

Today, as in the past, fire crews, machinery and logging do not contain nor prevent heat domes, drought, human ignorance or wind-driven wildfire. Urban fires where no forests are located are far more devastating than forest fires. Roads and off-highway vehicles lead to increased human-caused fire ignitions yet rarely are prohibited during high risk fire season. Yet the Forest Service promotes OHV recreation and increasingly logs large trees, building roads to remove logs. Even a temporary road yields sediment for many years after its useful life, especially if it continues to be used by wheeled vehicle.

Clearcuts and prescribed burns, at best, offer a temporary reduction in fire risk in worst-case dry/hot/windy weather. Post-logging vegetation regrowth within a couple years recreates conditions conducive to severe wildfire. Logging, roads, livestock grazing and human carelessness are some of the same factors contributing to dense forest regrowth, flammable fine fuels, drying soils and surface logs releasing carbon and leading to reduction in wildlife habitat effectiveness for many Region 6 focal and desirable native species.

Project area is home to a wide variety of plants and animals, including many species categorized as sensitive, threatened, or endangered by either the federal government or the state of Washington. Packs of state endangered gray wolves roam through the Project area, which also includes threatened whitebark pine, Canada lynx, endangered grizzly bear, wolverine, salmon, steelhead and wild trout.

Late and old structure (LOS) and mature forests provide nesting habitat for ESA-listed species, northern goshawk, cavity nesters, and bats. These ancient forests have historically and today been greatly diminished by clearcut and high-grade logging especially from 1950-1990s. As evidenced in project NEPA documents, in most of the project area there is a deficit of large, old trees. Clean, cold waters support ESA-listed salmon, steelhead, bull trout and sensitive species of red-band and west slope cutthroat trout.

The Project as proposed, has a potential to significantly alter natural landscape, reduce LOS important to micro and macro invertebrates, Future Range of Variability / historic forest conditions function and further degrade endangered species habitat and watersheds in large part already highly modified from effects of logging, livestock grazing, road system, legal and illegal off-highway vehicle (OHV) recreation. On top of these historical blunders, project action that sanctions further ecosystem degradation despite acknowledging climate change is in its parallel universe with its myopic viewpoints that more of the same will restore historic natural forest conditions. Climatologist acknowledge they don't know what the future bodes – precaution is advised.

HISTORY of OBJECTOR

Introduction

Perhaps it is somewhat instructive to describe the degree to which Kettle Range Conservation Group has invested its blood and treasure into safeguarding wild and old forests in the Okanogan-Wenatchee and Okanogan National Forest. No lesson learned is more salient KRCG's 20-year investment in collaboration than the abysmal outcome of a disastrous revised Colville National Forest plan, its return to regeneration clearcut logging, forestry prescriptions to attain alleged historic range of variability (HRV) through prescription tree individuals, clumps and openings (ICO), failed legislator promises and vacuous timber industry commitments that were crafted after 15 years of

collaboration including nearly a year of Forest Service-led community meetings (Colville Forest Summit).[1]

Unfortunately, collaboration turned out to be a ruse. U.S. Forest Service's penchant for logging, roads and cows regardless of their history of ecosystem degradation and demolition of ancient forests leading to multiple ESA listings - at the expense of pretty much everything the American People value most in their Public Lands – time and again has shown citizen activism is the ONLY way to successfully restore healthy forests and which apparently does not produce logging volume sought by the Forest Service.

Objector

Kettle Range Conservation Group represents conservationists working to ensure restoration of the circularity of natural mature & old growth forest ecosystem (DellaSala, et al 2024) habitats essential to the survival of threatened, endangered and sensitive (TES) species. KRCG members and staff live in and/or frequently use the Project area for non-motorized recreation, wildlife viewing, hunting and fishing, physical and mental wellbeing. Project authorized logging will significantly alter the natural appearing forest landscape whose healing process disfigured by Project actions, will outlive many of KRCG members.

Early in the 1980's, KRCG successfully challenged the Helen Timber Sale, et al, resulting in a reprieve from logging in the Thirteenmile and adjacent Inventoried Roadless Areas (IRAs). Beginning with our founding in 1976, Kettle Rangers have been a wilderness group. In the mid-1990's, KRCG co-organized the Eastern Washington Activists (EWASHACT), group, that later became the statewide Wild Washington Campaign. The core goal of these coalitions was to protect all "eastside" Washington wildlands > 1,000 acres. The most significant wildland forests of that initiative were within the OWNF.

KRCG was fully engaged in OWNF projects since the release of the 1989 LRMP. KRCG has challenged many projects over years for the most part because they targeted old growth forests and wildlands. In 2002, Kettle Rangers cofounded what later became the Northeast Washington Forest Coalition built on a foundational promise of equanimity. Twenty years of collaborative problem-solving working with the Colville and Okanogan-Wenatchee National Forest and an eclectic cross section of NE/NC Washington body politic, nevertheless failed to get a revised Land Management Plan (LRMP) that represented a fair outcome for its decades of collaborative problem-solving that was a significant contributor to local forest products industry surviving the 2008 financial collapse fueled by a bloated housing market.

In the late 1990's, KRCG organized public support for the Roadless Area Conservation Plan rulemaking that led to Forest Service rulemaking administratively protecting

[1] Colville National Forest planning "Forest Summit" was a formal process facilitated by the Forest Service and its contracted facilitation professionals, involving more than 80 participants during monthly/bi-monthly meetings from March 2006 to January 2007. Its conclusions were largely ignored and thus unrepresentative of the 2019 Colville Land Management Plan

Inventoried Roadless Areas (IRAs) in the Okanogan-Wenatchee and Okanogan National Forest.

From 2002 to 2022, KRCG actively collaborated with the Forest Service and the timber industry in the formation of Northeast Washington Forestry Coalition (NEWFC). KRCG was a cofounder of NEWFC and always participated in the Project development, serving as Board Secretary until 2020, attending field trips and filing detailed comment.

From spring 2017 through the fall of 2019, Kettle Rangers contracted seasonally working for the Colville National Forest thinning encroaching sub alpine fir (SAF) to reduce competition to whitebark pine (WBP) – an ESA threatened species. Typically work was 3-4 days a week from late June through early November.

OBJECTION

The Midnight Project does not meet legal thresholds, does not meet its Purpose and Need, will move away from Historic Range of Variability, is not responsive to public input, will harm regional focal and endangered species, will not reduce wildfire risk and will degrade scenic integrity and recreation experience.

The DDN and FONSI are not in accordance with the legal requirements of the National Forest Management Act (NFMA) 16 U.S.C. 1600 *et seq.,* and its implementing regulations, Endangered Species Act (ESA), National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* and its implementing regulations, Administrative Procedures Act (APA) 5 U.S.C. Sec. 706, the Collaborative Forest Landscape Restoration Program, (CFLRP), Omnibus Public Land Management Act of 2009 16 U.S.C. 7303(d). Sec 4003 (d) as amended, and the OWNF 2019 LRMP.

Project documents do not fully analyze the direct, indirect, and cumulative impacts the TES species including northern spotted owl (NSO), Canada lynx, gray wolf, wolverine and grizzly bear, et al. Project documents do not address many issues / questions raised by the Objector during project development, especially regarding best available science that contradicts assertions made by a select group of logging-friending scientists. The failure to disclose this information regarding site-specific actions is a failure to disclose baseline conditions, and therefore a failure to take a hard look at effects.

Statement of Reasons

A. Project repairing "functioning at risk" watershed condition in three of five watersheds is in the distant future and effects analysis inadequately assesses short-term loss of tree cover shading, increased surface and rill erosion, wildfire, roads, logging skid trails, peak water discharge events, disease and livestock grazing impacts.

B. P&N will not "Restore aquatic systems to improve function and resilience to disturbance" but will instead impact "at risk" watersheds, including by building 8.3 miles of temporary roads, skid trails up to a 1 mile from FS roads, grading existing roads and commercially logging.

C. The Project does not trend towards landscape resiliency nor attainment of Historic Range of Variability and in fact sets back the clock on restoring HRV for several decades.

D. HRV is based on faulty assumptions that are not representative of project area historic variation of forests and are limited by the timeframe used in the 40 year Future Range of Variability (FRV) assessment and focusing on arbitrary Individual Clumps and Openings (ICO) structure forests that will in the future become late and old structure (LOS).

E. ICO and condition-based management as a stand-in for actual logging prescriptions is arbitrary, lacking definition regarding where and when individual trees, tree clumps and opening will be located. ICO does not inform the public and lacks necessary information to understand variability of its application.

F. The OWNF does not have an up to date inventory of mature and LOS trees and as such it lacks evidence as to the abundance or lack thereof of mature and old at a landscape scale.

G. Project's regeneration logging and reducing forest canopy alters natural forest structure, promotes sapling regeneration that will *increase* fire risk and lead to increased wind infiltration, heating & drying surface soils and releasing carbon.

H. Preparation of an Environmental Assessment does not adequately evaluate the significance of reasonably foreseeable environmental impacts. An EIS is required because the Midnight Restoration Project is massive, has short and long term impacts to endangered species, and is only one of many active projects within and adjacent to the Twisp River Watershed that together have a significant impact. The Project is controversial, proposing to log 1,073 acres of a total 3,164 Large Tree Dense Forest.

I. The size and scope of this Project added to other adjacent timber sale projects and several large wildfires cumulative impacts to terrestrial / TES wildlife, recreation, hydrology and aquatic species, is cumulatively significant. Logging that removes large and old trees, though followed by planned prescribed fire, does not mimic natural occurrence of forest fire and succession. Wildfire largely removes needles and smaller branches but typically leaves tree boles. Burned trees provide long term carbon storage important to soil fertility, insects and wildlife.

J. Project Purpose and Need claims the Project will reduce risk of severe wildfire and associated negative environmental effects. Large high-severity fires are climate/weather-driven events. Under such conditions, thinning/logging and prescribed burns have little influence on the fire spread. All high-severity blazes are driven by high winds, typically under drought conditions. Harvesting timber does not translate simply into reducing fire risk. (Stone, et al, 2008)

K. The EA and supporting documents do not reasonably analyze the relationship of human-caused wildfire ignitions to roads and does not assess sedimentation caused by roads and the impact of 8.3 miles of temporary roads associated with this Project. Project documentation does not analyze potential increase in wildfire behavior associated with tree sapling growth, drying of soils and vegetation after opening up the forest during logging, increasing wind speed and solar infiltration.

L. Project analysis failed to adequately analyze impact of logging effects to winter habitat conditions on ungulates in violations of LRMP standards and guidelines. EA does not assess the impacts to wildlife during winter months from the loss of browse, snow-intercept and thermal cover. As Sean Parks, research ecologist with the Rocky Mountain Research Station, notes:

> *"There are several factors that can limit species' ability to disperse between protected areas, including instances in which locations are too far apart or separated by habitats a species cannot pass through— such as a desert between two mountain ranges—or those in which species would have to move through highly developed areas. Further, as the planet warms, certain climates may simply disappear, giving species nowhere to go." ("Stepping Stones" Rocky Mountain Research Station, May 2023, 2p)*

M. The Project design elements are to produce timber volume, cattle fodder and Forest Service timber program, and thus, unresponsive to public comment, purpose and need and scientific research. See LeFevre (2020), Churchill (2007), Hessburg (2015), Stine (2014), Hessburg, Agee (2003).

N. Project does not improve recreational opportunities to better align with social concerns. Project degrades scenic integrity and fails to maintain adequate forest cover critical to the survival of endangered species.

O. Project does not effectively analyze wildlife viability of Management Indicator Species (MIS) Region 6 Focal Species nor threatened, endangered and sensitive species (TES) and as otherwise required by NFMA, FLPMA, ESA and 1989 LRMP. Project will not enhance and maintain habitat for federally listed wildlife species as well as elk, northern goshawk, marten and white-headed woodpecker.

P. The impact of livestock grazing past, present and future is not reasonably analyzed nor its impacts to recreation, wetlands, aquatic species, wildlife, invasive weed spread and TES species.

Q. The project degrades forest soils, exacerbating loss of soil carbon, reduces soil fertility and future tree growth. Compacted soils will lead to surface & rill erosion, degrading aquatic ecosystems, causing soil loss and potentially leading to mass-wasting (landslides).

R. Predecisional interagency review denies a public response and objection.

1. Amendments to the Forest Plan were not properly done

The Forest Service failed to follow the requirements of the 2012 Planning Rule (36 C.F.R. Part 219) for how to make plan amendments under NFMA. For example, while the EA determines that the purpose of the FPOG Amendments (see page 49) relates to the substantive requirements of 219.9(a)(2) (ecosystem diversity) and 219.11(c) (timber harvest), it fails to explain how those requirements were applied under 36 C.F.R. 219.14(c). Additionally, while it identifies that those requirements relate to the purpose of the project, it does not appear to analyze them with respect to the effects of the action (see 36 C.F.R. 219.13(b)(5), which contains both a purpose prong and an effects prong). This is at odds with other parts of the EA which emphasize the effects the project will have on species because of loss of mature habitat (i.e., 36 CFR 219.9(a), (b)).

Similar issues exist in the discussion of substantive requirements related to the purpose and effects of the NWFP Amendments (see page 58), particularly the NWFP C-12 Amendment. The explanation provided for how the substantive requirements were applied is sparse, and there is no explanation for why provisions that apply to the purpose of the amendment do not apply to the effects of the amendment. Further, the discussion of substantive requirements for the NWFP (and likely the FPOG) plan amendments are likely deficient under the 2012 Planning Rule because they do not analyze all directly related provisions. For instance, the NWFP plan amendment analysis does not identify any part of section 219.9 (diversity of plant and animal communities) as related to the amendments, despite the fact that other parts of the EA discuss the importance of old growth habitat to providing ecological conditions important to plant and animal species (see Section 219.9(a), (b)(1)).

2. Failure to Prepare an Environmental Impact Statement (EIS)

The Forest Service violated NEPA by failing to prepare an Environmental Impact Statement. First, the FONSI/DN's consideration of short and long-term effects as a rationale for not preparing an EIS is faulty because the wildlife analysis in the EA is faulty (i.e., did not consider the Draft BA's LAA determinations and impacts to critical habitat for the lynx and gray wolf, did not fully analyze impacts to other species such as NSO). Second, the Forest Service's rationale is not adequate because it did not consider several other factors relevant to determining significance, including the unique characteristics of the area (e.g., overlap with Critical Habitat for several species including aquatic species, overlap and extent of treatments with Riparian Reserves and LSR), uncertainty (e.g., unknown species occupancy, including for gray wolf, the relative benefits and harms of wildfire for species), cumulative impacts (little analysis beyond incorporation of the Twisp Revised Report and a general reference to consideration of cumulative impacts, Twisp is not referenced in the FONSI), and the extent of plan amendments required (in addition to the potential violations of NFMA). Each of these factors are relevant to whether the project is significant and require an EIS.

We like to think of determining whether an EIS is required as filling a bucket with water. Each significance factor adds some amount of water to the bucket, and when the bucket is full, an EIS is required. One factor might not fill the entire bucket, but when all the factors add their water to the bucket, it can still require an EIS. Here, the bucket is overflowing and the Forest Service is required to prepare an EIS.

Given the immensity of Midnight Project and its myriad ESA listed species and adjacency to national park and wilderness areas, the Forest Service has a duty to fully analyze the environmental effects of both projects in an environmental impact statement ("EIS"), with a range of alternatives and a robust 45-day public comment period, and engage in the pre-decisional objection process under 36 C.F.R. part 218 consistent with past practices.

NEPA requires the Forest Service to prepare an EIS when it proposes a major federal action that *may* significantly affect the quality of the environment. 42 U.S.C. § 4332(2)(C); *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9th Cir. 1998) ("[A] 'plaintiff need not show that significant effects will in fact occur….' It is enough for the plaintiff to raise 'substantial questions whether a project may have a significant effect' on the environment.") (Citation omitted). Importantly, "the [Ninth] Circuit has established a relatively low threshold for preparation of an EIS." *Natural Res. Def. Council v. Duvall*, 777 F. Supp. 1533, 1537 (E.D. Cal. 1991). If a plaintiff raises substantial questions regarding whether a project *may* have a significant effect on the environment, "a decision not to prepare an EIS is unreasonable." *Blue Mountains Biodiversity Project*, 161 F.3d at 1211 (citing *Save the Yaak Comm. v. Block*, 840 F.2d 714, 717 (9th Cir. 1988)).

The Midnight Project reaches beyond the threshold of a Finding of No Significant environmental Impact. Its connected actions that encompass a wide geographic area seriously challenges the conclusion that a less rigorous examination of environmental consequences in an environmental assessment framework meets necessary legal requirements. A Finding of No Significant Impact in this case is fundamentally untenable. Taken together, past, present and future logging and road building both projects will have dire environmental impacts on fish & wildlife, carbon storage, wilderness recreation and scenic integrity. As such this Project must be more thoroughly examined in an Environmental Impact Statement.

NEPA and its implementing regulations have seen substantial changes in Congress under the Fiscal Responsibility Act of 2023,[2] and the more recent removal of the Council on Environmental Quality (CEQ) regulations implementing the law,[3] and the issuance of the USDA's interim final rule published on July 3,2025 (90 FR 29632). Yet, Congress retained,

[2] P.L. 118-5
[3] 60 FR 10610

and thus affirmed, its recognition of the "profound impact" human activities have on the natural environment, including "resource exploitation," and the need for a national policy "to create and maintain conditions under which man and nature can exist in productive harmony."[4] And, while the current administration seeks to sidestep its legal requirements, the Forest Service must still ensure it complies with the law.

In other words, the agency must demonstrate compliance with the NEPA as amended, the 1978 CEQ regulation, and the Forest Service rules found under 36 C.F.R. § 220 (2024). As such, the large body of case law pertaining to the Forest Service compliance with NEPA is still very much relevant and applicable to the agency's actions no matter to internal policy direction that seeks to limit public involvement or constrain the requisite analyses NEPA requires to meet its fundamental goals: "(1) to ensure that the agency will have detailed information on significant environmental impacts when it makes decisions; and (2) to guarantee that this information will be available to a larger audience."[5] We remind the Forest Service that "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."[6] Stated more directly, NEPA's "'action-forcing' procedures ... require the [Forest Service] to take a 'hard look' at environmental consequences"[7] *before* the agency approves an action. "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."[8] 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."[9]

NEPA's review obligations are more stringent and detailed at the project level, or "implementation stage," given the nature of "individual site specific projects."[10]

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[4] 42 U.S.C. § 4331(a).

[5] *Envtl. Prot. Info. Ctr. v. Blackwell*, 389 F. Supp. 2d 1174, 1184 (N.D. Cal. 2004) (quoting *Neighbors of Cuddy Mt. v. Alexander*, 303 F.3d 1059, 1063 (9th Cir. 2002)); *see also Earth Island v. United States Forest Serv.*, 351 F.3d 1291, 1300 (9th Cir. 2003) ("NEPA requires that a federal agency 'consider every significant aspect of the environmental impact of a proposed action ... [and] inform the public that it has indeed considered environmental concerns in its decision-making process.'").

[6] *Marsh v. Or. Natural Res. Council*, 490 U.S. 360, 371 (1989) (quoting 42 U.S.C. § 4321).

[7] *Metcalf v. Daley*, 214 F.3d 1135, 1141 (9th Cir. 2000) (quoting Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 348 (1989)).

[8] *Marsh*, 490 U.S. at 371 (citation omitted).

[9] *Biodiversity Cons. Alliance v. Jiron*, 762 F.3d 1036, 1086 (10th Cir. 2014) (internal citation omitted).

[10] *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. Envtl. 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 risks do not constitute a hard look, absent a justification regarding why more definitive information could not be provided."[11] NEPA requires site-specificity to fulfill two basic purposes: 1) to ensure agencies are making informed decisions prior to acting; and 2) to ensure the public is given a meaningful opportunity to participate in those decision-making processes.[12] Federal courts apply these touchstone criteria when evaluating whether an EIS is adequately site-specific.[13]

Analyzing and disclosing site-specific impacts is critical because where (and when and how) activities occur on a landscape strongly determines the nature of potential environmental consequences. 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."[14] 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.[15] Indeed, "location, not merely total surface disturbance, affects habitat fragmentation,"[16] and therefore location data is critical to the site-specific analysis NEPA requires. 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.[17]

We also caution the Forest Service against claims that it does not have to compare the environmental costs and benefits of its proposed actions in its NEPA analysis, particularly for projects that propose logging, thinning or burning activities. NEPA requires the agency to produce a statement on the "reasonably foreseeable environmental effects of the proposed agency action," including adverse effects that cannot be avoided should the agency implement the proposed action. Additionally, the

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[11] *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").

[12] *Stein v. Barton*, 740 F. Supp. 743, 749 (D. Alaska 1990).

[13] *See WildEarth Guardians*, 790 F.3d at 921-25 (holding EIS inadequate for failure to disclose 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").

[14] *New Mexico ex rel. Richardson*, 565 F.3d at 706.

[15] *New Mexico ex rel. Richardson*, 565 F.3d at 707.

[16] *New Mexico ex rel. Richardson*, 565 F.3d at 707.

[17] *Or. Natural Res. Council Fund v. Goodman*, 505 F.3d 884, 892 (9th Cir. 2007).

agency must "ensure the professional integrity, including scientific integrity, of the discussion and analysis in an environmental document."[18] To meet NEPA's mandate, the agency must evaluate and disclose the risks and costs of resulting ecosystem degradation, including the potential for and risks of escaped controlled burns. In determining the need to prepare an environmental assessment or an environmental impact statement, NEPA clarifies that the Forest Service "is not required to undertake new scientific or technical research unless the new scientific or technical research is essential to a reasoned choice among alternatives, and the overall costs and time frame of obtaining it are not unreasonable." Evaluating and disclosing the risks and costs of the proposed action, especially any risks of ecosystem degradation and escaped controlled burns, is both essential for making a reasoned choice. Such disclosure is essential given the potential of harmful environmental consequences and certainly the overall costs and timeframe for such an analysis is not unreasonable.

NEPA further mandates that the agency provide the public "'the underlying environmental data' from which the Forest Service develop[ed] its opinions and arrive[d] at its decisions."[19] "The agency must explain the conclusions it has drawn from its chosen methodology, and the reasons it considered the underlying evidence to be reliable."[20] In the end, "vague and conclusory statements, without any supporting data, do not constitute a 'hard look' at the environmental consequences of the action as required by NEPA."[21]

NEPA and federal case law establish specific ways agencies must analyze proposed actions, including project-level decisions, including a detailed discussion of direct, indirect, and cumulative impacts and their significance; and an analysis of reasonable alternatives to the proposed action. Such analysis is required for both environmental assessments and EISs.

In sum, the Forest Service has yet to meet these requirements, and further, it cannot reach a FONSI determination without fully addressing factors of significance. In determining whether a proposed action may "significantly" impact the environment such that an EIS is required, both the context and intensity of the action must be considered. To be clear, the CEQ adopted revised significance factors when it published its Phase II NEPA rules on May 1, 2024 (89 FR 35558), which directs the following, among others, for determining significance:

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[18] 42 U.S.C. 4332 (D)

[19] *WildEarth Guardians v. Mont. Snowmobile Ass'n*, 790 F.3d 920, 925 (9th Cir. 2015).

[20] *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1075 (9th Cir. 2011) (citation omitted).

[21] *Great Basin Mine Watch v. Hankins*, 456 F.3d 955, 973 (9th Cir. 2006); *see also Ocean Advocates v. Army Corps of Engineers*, 402 F.3d 846, 869 (9th Cir. 2004) (finding that a vague and uncertain analysis is insufficient to meet NEPA's mandate).

> In considering whether an adverse effect of the proposed action is significant, agencies shall examine both the context of the action and the intensity of the effect. In assessing context and intensity, agencies should consider the duration of the effect.
> --
> However, agencies shall not offset an action's adverse effects with other beneficial effects to determine significance (for example, an agency may not offset an action's adverse effect on one species with its beneficial effect on another species).

40 C.F.R. 1501.3(d). In addition to new establishing new direction for analyzing the significance of an action in several contexts, the 2024 CEQ regulations include a number of factors to consider for determining the intensity of an action, including:

> (i) The degree to which the action may adversely affect public health and safety.
>
> (ii) The degree to which the action may adversely affect unique characteristics of the geographic area such as historic or cultural resources, parks, Tribal sacred sites, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
>
> (iii) Whether the action may violate relevant Federal, State, Tribal, or local laws or other requirements or be inconsistent with Federal, State, Tribal, or local policies designed for the protection of the environment.
>
> (iv) The degree to which the potential effects on the human environment are highly uncertain.
>
> (v) The degree to which the action may adversely affect resources listed or eligible for listing in the National Register of Historic Places.
>
> (vi) The degree to which the action may adversely affect an endangered or threatened species or its habitat, including habitat that has been determined to be critical under the Endangered Species Act of 1973.
>
> (vii) The degree to which the action may adversely affect communities with environmental justice concerns.
>
> (viii) The degree to which the action may adversely affect rights of Tribal Nations that have been reserved through treaties, statutes, or Executive Orders.

40 C.F.R. 1501.3(d)(2). If the Forest Service's action may be environmentally significant according to any one of the criteria, it must prepare an EIS. *Blue Mountains Biodiversity Project*, 161 F.3d at 1212; *Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety*

Admin., 538 F.3d 1172, 1220 (9th Cir. 2008) ("an action may be 'significant' if one of these factors is met"); *Ocean Advocates v. U.S. Army Corps of Engineers*, 402 F.3d 846, 865 (9th Cir. 2005) ("We have held that one of these factors may be sufficient to require preparation of an EIS"); *Nat'l Parks & Conservation Ass'n*, 241 F.3d at 731. Even if no significance factor standing alone requires the preparation of an EIS, consideration of the significance factors cumulatively can require the preparation of an EIS. *Anderson v. Evans*, 371 F.3d 475, 494 (9th Cir. 2004) (requiring EIS based on consideration of multiple NEPA significance factors); *Cascadia Wildlands v. U.S. Forest Serv*., 937 F. Supp. 2d 1271, 1283 (D. Or. 2013) ("[W]hen considered individually, none of these significance factors might require an EIS. However, when considered collectively, they do."

Here, the vast majority of the NEPA significance factors are implicated, as discussed throughout this objection (and incorporated into this objection point). For example, there are significant direct, indirect, and cumulative impacts from the Midnight Project; there will be impacts to areas with unique characteristics and ecologically critical areas; there are impacts to public health and safety; there are highly controversial and uncertain effects; and there are impacts to ESA-listed species and their habitat. Importantly, the draft EA looks at these factors individually, but does not consider whether cumulatively they raise the significance of the project such that an EIS is required. Note also that this is different than looking at the cumulative effects of the project, but rather whether the synergistic effects of the significance factors requires an EIS.

In particular, the Forest Service proposes removing or degrading hundreds of acres of lynx habitat. Given the dire straits of the northern spotted owl, wolverine, Chinook salmon, steelhead and Canada lynx in Washington (the Washington Fish and Wildlife Commission recently uplisted lynx to endangered status under state law due to the significant threats it faces), this represents a significant impact in and of itself and justifies the preparation of an EIS.

The Midnight Project EA failed to take a hard look at past, present and future cumulative environmental impacts associated with the Project. The NEPA analysis does not assess if there are irreversible and irretrievable commitment of resources. The EA and supporting documents did not adequately address the viability of TES species and to evaluate reasonable range of alternatives that reduce environmental conflicts.

3. Wildlife - LRMP/R6 surrogate, focal, sensitive and ESA-listed species

The first paragraph in 3.0 Project Needs section of the Final Wildlife Specialists Report pretty much sums up what is a central contradiction of Midnight Project: the lack of LOS old growth providing critical wildlife habitat and the irony that to provide for NSO and other LOS seclusion dependent species the Forest Service wants to log and turn what is presently old forest multi-story (OFMS) to old forest single-story (OFSS) structure, total

of 3,164 acres of large tree dense forest in the project area. *(Midnight Vegetation Report @41*)

> *High-quality nesting and roosting habitat for the northern spotted owl is sparse within the Midnight Restoration Project area, occurring almost exclusively in forests that are highly departed from sustainable conditions. To support northern spotted owl, there is a need to retain the existing complex forest structure in these small but unsustainable areas and to help protect them from fire by reducing fuels and creating resilient structure in the surrounding forest. Since almost all current high- quality habitat exists in locations that are not environmentally suitable for dense forest over the long term, there is also a need to maintain and create dense, complex forests as replacement habitat in locations that will continue to support it as the climate changes. Suitable stands near and/or adjacent to identified high- quality northern spotted owl nesting and roosting habitat need to be treated in a manner that promotes and improves future development of these stands towards high-quality nesting and roosting habitat and helps increase the size and connectivity of these desirable stands.*

This fits Einstein's definition of crazy.

The Forest Service violates NFMA by failing to maintain habitat supporting a diversity of plant, fish and wildlife species and it fails NEPA by failing to take a hard look at the impacts of the action on wildlife.

There are a total of 3,519 acres of lynx suitable habitat (denning/foraging) within the project area. Lynx are habitat specialists that depend on dense, multi-story boreal forests with dense horizontal cover. The Wildlife Specialist Report creates an illusion that forage and denning habitat exists in absence of dense, multi-story and horizontal cover.

Actual, suitable lynx habitat >4,000' elevation in the Project area exceed Lynx Analysis Unit boundaries, including Canyon Creek Ridge of mountains, and Thompson Ridge. These areas are more important today because wildfire has reduced suitable winter habitat in LAUs burned by recent wildfire. On the other hand, LAUs burned in wildfire contain suitable seclusion habitat late spring through late fall, provided by shrub regrowth, snags, downed logs and in many areas fireweed exceeding 6' tall.

> *"Our results indicated that the probability of a female producing kittens was most associated with the connectivity of mature, multistoried forests (composed of mostly spruce-fir). However, the variation among female lynx accounted for ≈62% of the total variation explained in litter production, suggesting substantial individual-level variation. Thus, managers can contribute to increased reproductive success of female Canada lynx by facilitating the development of mature forests, but measuring that success will be difficult given the individual variation. In core areas of high quality females (i.e., produced kittens frequently),*

mature forest was 17% more abundant (i.e., ≈60% of the total core area), more connected, less clumpy, and exhibited 2.25-times larger patch sizes than the core areas of low quality females. At the homerange extent, patterns were less pronounced while the abundance of mature forests remained high (≈50%) for high quality females. Additionally, we demonstrated that the relative density of snowshoe hares was ≥2.8 times higher in advanced regenerating Combined, our results suggest that a high quality mosaic for female Canada lynx contains ˜50–60% mature forest and ˜18–19% advanced regenerating forest. Results indicated that advanced regeneration was ˜20 to80 years old while mature forest was ˜50 to =200 years old."[22]

Figure 11 map index demonstrates heavy-handed logging will be applied to much of the project area. Of the 25,260 acres of commercial and non-commercial logging, 22,920 acres of forest canopy will be reduced to young, single tree (likely 40% or less). And, it is important to recognize "non-commercial" does not mean "no" commercial value. *"Understory thinning on 13,503 acres is non-commercial. Cutting and piling is presumed to be capital intensive, accomplished with lower cost and higher production rate equipment." (Midnight Economic Report @6)* In other words, "commercial" refers to the profitability of logging, etc.

Beyond these unexplained and unsupported discrepancies, the EA's analysis of impacts to species such as NSO, Grizzly Bear, Gray Wolf, Wolverine, and Canada Lynx are likely deficient. For instance, the EA does not discuss habitat fragmentation impacts to Lynx (EA page 32). The EA also does not discuss logging treatment impacts on Grizzly Bear/Gray Wolf, and instead looks only at road closures (EA page 33). The NSO analysis is also sparse. For instance, the habitat and other guidelines of the 2012 NSO Recovery Plan are not discussed in the EA, FONSI/DN, or Wildlife Specialist Report, except to support the Forest Service's position on wildfire.

Benefits to Wildlife Overstated / Risks to Wildlife Understated

The project claims to restore habitat for whiteheaded woodpecker even though the logging plan will reduce the potential for high concentration of snag habitat favored by this species.

Large diameter and LOS trees should be left intact on the landscape to provide trunk foraging opportunities for birds. Large trees also represent superior genetics because they have persisted on the landscape despite pestilence, storm and fire, for longer than most other trees. Large trees have larger branching structure & crowns producing more

[22] Holbrook, J.D., et al. 2019. Management of forests and forest carnivores: Relating landscape mosaics to habitat quality of Canada lynx at their range periphery. Forest Ecology and Management 437:411-425.

seed and wildlife habitat for bird and mammals, and offer perches for predatory birds such as hawks and owls documented in the project area. Large diameter legacy trees with mistletoe present should retained to provide habitat for species that rely on mistletoe brooms for nesting like the great gray, long eared, great horned owls and a plethora of song birds.

According to Sara Johnson, Ph.D, reducing canopy closure by 60%-90% will significantly affect birds, mammals, humidity, snow intercept, increased summer heating & drying and winter cold.[23] Proposed amendment to LRMP S&G deer winter range would reduce snow-intercept/thermal cover by 1,971 acres below plan levels.

Old growth forest levels recommended for forest birds range from 20-25%, although this is at the very low end of historical old growth of 20-50% of the Northern Rockies Landscape (Lesica 1996). Forests in the project area for the most part have a similar vegetation composition as the eastern Rocky Mountain forests, i.e. Colville and Panhandle National Forest. Montana Partners in Flight (2000) recommends from 20-25% old growth for dry and moister forest habitats for birds. Bull and Holthausen (1993) recommend 25% old growth for the Pileated Woodpecker. Reynolds et al. (1992) recommends 20% old growth for the Northern Goshawk. Lodgepole pine forests can provide "early seral old growth" (Hamilton 1993) when mature forest stands are impacted by bark beetles. The longer the fire cycle, the greater will be the amount of landscape old growth for birds. Bush et al. (2007) reported that Region 1 had an average of 13.7% OG almost 20 years ago; on the Lolo National Forest, old growth measurements from 1995-1996 reported 9.6% old growth. Currently DellaSala and others reported that Forest Service lands outside of Alaska have 9% old growth, while Barnett and others estimated 10% old growth.

Loss of Snag Habitat

Snags are essential as both nesting and foraging habitat. Project will reduce snags and future snag recruitment.

Most forest birds associated with snags require forested habitat, where hiding cover exists for protection from predators, and thermal cover exists to moderate heat, cold, and severe weather evens, including wind and heavy precipitation. Two owl species, the Boreal and Great Gray Owls, are known to be sensitive to heat stress (Hayward 1993; Hayward 1997; Koshmrl 2013).

Fire and insects and disease are essential factors that create snags for wildlife. Old growth forests provide the largest snag sizes for species that require very large snags, including the flamulated owl that uses an average snag size of 28 inches dbh (Bull et al. 1990), and the boreal owl, which uses an average snag size of 24 inches dbh (Hayward 1993). The longer the fire cycle, the greater will be the availability of large snags for forest owls.

[23] Billings Gazette March 15, 2023 Billings Gazette March 15, 2023

Snags are important for other species in addition to birds. Horowitz (2023) reported in a Montana Outdoors article that 60 species of wildlife use snags for nesting, roosting or drumming. The insects and diseases that create snags also provide forage for woodpeckers, who in turn create nesting sites for many other birds, including owls (Hayward 1993).

Project treatments will have a significant impact on LRMP/R6 surrogate, focal, sensitive and ESA-listed species, including white-headed and pileated woodpecker, northern goshawk, gray wolf, mule deer, elk and Canada lynx. Regeneration harvest treatments coupled with common practice nowadays where a logger determines what trees to cut, (aka: Condition-Based Management / Designation by Description) where to cut them, where to put skid trails and permissibly allowing deviation from contract specifications to accomplish desired outcomes; it's impossible to ascertain how logging units would actually impact to ecological integrity and wildlife habitat. Unfortunately the FS has seen a number of staff cuts that likely will exacerbate its inability to provide meaningful project oversight.

Figure 12, Vegetation Specialist Report map merely provides general polygons where forest stands *may be considered* (emphasis added) for thinning trees 21-24.9 inches dbh in Late Successional Reserves. This presents little information and is a case in point why a future decision post Decision Notice does not comply with what NEPA requires regarding publicly available information. The EA and specialist reports do not assess landscape patterns regarding wildlife viability/migration/rearing habitat, key considerations. Wildlife viability cannot be determined without in part assessing where wildlife can move through suitable habitat in a mosaic of roads, old and new logging units, zones of increased human disturbance and burned area landscape.

Project will produce enormous amounts of residual biomass which is often piled and burned. Pile burning harms soils. A portion of this residual biomass should be retained and designated as wildlife habitat piles. These piles should be intentionally structured with larger diameter stems on the bottom to provide interior open spaces and smaller stems on top to provide cover. Habitat piles provide enormous value for small mammals, reptiles and birds. Habitat piles can be intentionally located outside of the drip line of conifers to mitigate wildfire risk. Habitat piles should be constructed intentionally, designated and marked so they are not removed as slash piles.

Deer Winter Range Snow Intercept/Thermal

Two LRMP standards & guidelines would be amended to allow logging that would reduce deer winter range cover on up to 1,971 acres to levels below those specified in Forest Plan S&Gs. This is a double hit to the deer population these S&Gs were established to protect as "*Recent wildfires have substantially reduced the amount of … bitterbrush habitat on mule deer winter ranges." (Wildlife @1)*

And, the fact is recent wildfires the Twisp and Methow River watersheds have significantly reduced snow-intercept/thermal cover. Winters in the project area can produce below-zero cold, deep and drifting snow, making both travel and finding food very hard. Deer use forest cover to locate food and shelter from severe winter weather. Decreasing the amount of available cover, below the LRMP's standards, may have a significant adverse impact on deer in the Project area.

ESA-Listed Species

NEPA and Section 7 of the ESA require the Forest Service and FWS utilize the best available science when analyzing the effects of a proposed action – here, the Project – and consulting on the proposed action. This includes but is not limited to the latest iteration of the lynx species status assessment, latest information from WDFW relevant and latest scientific studies and papers, including King (2020), Lyons (2023), Vanbianci (2015), Vanbianci (2017), Johnston (2012), and Koehler (2008).

The Endangered Species Act (ESA) prohibits federal actions that are likely to jeopardize the continued existence of an endangered or threatened species or adversely modify designated critical habitats. Habitat suitable for ESA-listed grizzly bear, wolverine, Canada lynx, whitebark pine occur in the Project area.

Broad-scale and abrupt changes in landscape structure and organization can be difficult for native plants, animals, and human communities to withstand (Liu et al. 2007, Spies et al. 2014). Accordingly, a task for current-era managers is to manage for change with uncertainty in mind. Methods that narrowly focus on rebuilding late-successional and old forests cannot restore integrity or resilience to landscapes, nor can they bring about climate change and wildfire-adapted landscapes.

Project treatments proposed will have a significant impact on Region 6 surrogate, focal, sensitive and ESA-listed species and including black-backed woodpecker, pileated woodpecker, goshawk, great gray and flamulated owl, northern goshawk and Canada lynx. Reducing tree canopy by up to 60% and ½ to 1 acre regeneration logging (openings part of ICO), log landings, logging equipment skid trails, pile burns and stumps will degrade rather than improve focal bird species, snow-intercept/thermal cover, seclusion/migration/rearing habitat for ESA-listed, LRMP focal and surrogate species. This heavy-handed logging will not result in a "functioning ecosystem." A "functioning ecosystem" for many bird species, especially goshawk that are susceptible to predation by red tailed hawks in open canopy forests and clearings, will not be achieved by Alternative 2.

This Project will further increase habitat fragmentation and the viability of wildlife diversity. Wilcove et al (1986) found that habitat fragmentation is a principal threat to

most wildlife species in the temperate zone. This Project degrades the viability of wildlife diversity.

Science defines uncertainty, challenges assumptions and must be repeatable. Retaining individual trees and tree clumps, reducing tree canopy by up to 40%/acre, plus log landings, logging equipment skid trails, pile burns and ½ - 1 acre regeneration logging (openings) collectively are treeless openings. Individual, clumps and openings (ICO) logging prescriptions and its computer modelling has not been proven to achieve forest restoration even where ICO was initially tested in eastern Oregon.[24] Why? Because it is dependent on logger and sale contractor skill sets. ICO is not a cookie-cutter, linear application and particularly problematic applied in multi-storied conifer forest where there is varied rugged terrain and soil composition; solar aspect, slope and elevation complexities. ICO is a new approach and will take decades and decades to show verifiable results. ICO and HRV are based on a few studies, inherently ignore evolving forest ecosystems and are largely based on computer modeling. ICO is also of questionable application in mesic and wet forests.

What has proven to show immediate beneficial ecological results is "thin from below" forest restoration. Bangs Mountain Project in the Kettle River Range shows incredible results even a decade after it was completed. But, the problem is Bangs Mountain Project did not produce as much timber volume as ICO could have.

4. The Project does not fulfill its Purpose & Need

P&N will not "Restore aquatic systems to improve function and resilience to disturbance" but will instead impact "at risk" watersheds.

Project Objectives will not achieve Purpose and Need because the EA relies on faulty assumptions and objectives that include identified Needs:

1) Desired Reference Conditions.

- This need is applied across R6 & R1. It's a campaign built on interpretation / misinterpretation of a select set of research that supports FS conclusions while it ignores contradictory scientific evidence.
- Design element sanctions cutting trees up to 24.9" diameter breast height (dbh) even though LOS is lacking, and commercial logging will delay transitioning to HRV for decades or an undermined period of time beyond what is reasonably foreseeable to attain LOS.
- HRV is based on faulty assumptions and a narrow reading of historical change that is not presented in project documents. The potential for error in this guesswork is not discussed and failure to identify this is unscientific.

[24] Timothy Coleman, personal communication with staff of WA Department of Natural re ICO science by Dr. Derrick Churchill in the Ochoco NF discussed during NE Washington Forest Coalition field trip to the Sherwood Forest, Stevens County, WA, March 2022.

- The timeframe for achieving HRV objectives is beyond the LRMP and may never occur.
- Need and design elements unresponsive to public comments and contrary scientific research.

2) Protect and Maintain Wildlife Habitat and Complex Forest in Strategic Places

- Logging of Canada lynx, NSO and other wildlife habitat is contrary to this need.
- Cutting large diameter trees and opening canopy up to 5 acres, ICO will not increase stand size.
- Snag forests provide habitat suitable for NSO, Canada lynx, cavity nesters, etc. Logs on a log truck provide none of these.
- Need / design elements are biased by a pre-determined "likely" for severe wildfire to occur even though there is a great degree of uncertainty. Drought, heat domes and human caused wildfire are unpredictable.

3) Provide an Affordable, Safe, and Efficient Transportation System and Reduce Sedimentation from Roads on National Forest System (NFS) Lands

- 8.2 miles of road reconstruction plus skid trails and logging in riparian areas will increase sediment delivery to streams, will degrade aquatic systems, will lead to increased snowmelt and rain runoff, reduce infiltration/aquifer recharge and thus will not improve hydrologic function, nor resilience to disturbance.
- Project road construction, logging and authorized cattle grazing will increase sediment delivery to streams and increase water yield that will cause bank scouring.
- One meter of road reconstruction/construction can produce 20-35 tons of sediment/acre/year

4) Reduce Fire Risk to Communities, Reduce Hazards Along Ingress/Egress Routes, and Improve Firefighting Effectiveness Within and Adjacent to Wildland-Urban Interface (WUI)

- Extensive post wildfire analysis from across the western U.S. discredits logging as a reliable preventative for severe wildfire. Logging is at best a temporary fix and there is no way the FS can maintain tens of million acres of national forest with prescribed fire.
- Road system in the Midnight Project area leads to dead ends. Treatments will not protect homes and structures and the purview of landowners and beyond that of the U.S. Forest Service.

5. Project documents are not responsive to public comments

Despite extensive collaborative input, written and verbal comments, the EA, DN & FONSI are not responsive to collaborative public comments.

FS dispenses with public comment asking it not to log big trees, not to repeat what it did in the eastern part of the completed Twisp River Project. Logging up to 24.9" dbh is not small diameter thinning. Logging in LOS is not small-diameter thinning.

FS ignores contrary scientific evidence presented that contradicts its "departed" conclusion.

Forest Plan amendments allowing for logging - NWFP S&G (NWFP C-12) of up to 2,569 acres of stands over 80 years old and include a mix of young and old forest with multistoried layers, densely stocked or overstocked.

Removing 60 percent of forest canopy, regeneration cuts up to 5 acres is not responsive to public input.

6. Historic Range of Variability

Much of the Twisp River watershed is designated Wilderness. Wilderness is naturally evolving ecosystem that include evolutionary influences of human, wildlife, plant, geology, glaciation and climate. One only need peer through the looking glass of Wilderness to get a factual look at history. Wilderness is the quintessential representation of Historic Range of Variability. HRV as represented in project programmatic documents is something quite different and a construct of human imagination. Climatology is not based solely on one 30 year cycle, but many. HRV is not a century old, it is millennial in age. Forests in the project area are comprised of various mixes and ages of plants and trees (live & dead), dependent on solar aspect, elevation, fire, weather, climate and human influences among many.

Forest Service does not acknowledge nor offer *reasoned debate* regarding limitations of its own interpretation of HRV/FRV, relying on its long term strategy moving away from HRV with a lofty expectation of achieving it decades in the future.

> *While the landscape evaluation process … modeled the immediate results of proposed thinning on key stand characteristics, it does not model long-term growth of untreated or treated stands to determine the effects of natural succession (the No Action alternative) or active management (the Proposed Action alternative) on vegetation. These changes were simulated for each alternative over a 40-year period using the Forest Vegetation Simulator (FVS) model. (Midnight Vegetation Report 4.1.2.2)*

As the public well knows, the Forest Service, WA Dept. of Natural Resources and of course the timber industry repeat talking points on a nearly daily basis that forests need to be logged to make the "healthy." Simply put, DNR's forestry model guidance, its demonstrably biased tree cutting marking/clearcuts in several recent timber sales resulting in deconstruction of otherwise healthy forest stands (in particular, Trout Sale, Sherman Pass Project, Colville National Forest) clearly demonstrate a bias toward timber volume, not attainment of HRV.

Current historic Late Old Structure (LOS) forests historically larger patch size and more broadly distributed in the project area, today, pale in comparison to those that existed prior to logging that began in 1950 and continued for over 40 years into the 1990s.

Project documents argue watershed forest "has increased tree density compared to historical conditions" – of course, because it's been heavily logged for decades. The Forest Service created this imbalance and admits to it in project documents yet pivots back to logging as the remedy for all that ills the forest that it has created.

The Project does not trend towards landscape resiliency, will not achieve historic reference stand conditions in mature and old forest structure. Reference conditions are based on false pretense limited by temporal and spatial limitations (brief history, subwatershed scale vs eastern Cascades/USFS-managed forests). The OWNF does not have an up to date inventory of mature and old growth trees and as such lacks evidence as to the abundance and lack thereof of mature and old forest at a landscape scale. Its assessments are largely based on LIDAR/computer modeling. Douglas fir, like ponderosa pine, is a drought and fire resistant species (LeFevre, et al. 2020)[25]

> The dominance of ponderosa pine, Douglas-fir, and western larch on the warm dry, cool dry, and mesic Douglas-fir PAG historical plots is consistent with findings regarding historical reference condition studies in similar forest types in Oregon and Washington (Harrod et al. 1999, Churchill et al. 2013, Hagmann et al. 2013, 2014). These species are highly resistant to low and mixed-severity fire and resilient to drought disturbance. (@ 586)

> The historical plots represent a wide variety of conditions in terms of density, composition, and tree sizes. Douglas-fir and western larch were present on all historical plots, representing an average basal area (BA) of 36 percent and 31 percent, respectively (Figure 2). BA ranged from 35.7 ft^2 $ac.^{-1}$ in the warm dry Douglas-fir PAG to 70.2 ft^2 $ac.^{-1}$ in the cold mesic subalpine fir PAG. Despite having the lowest BA, the warm dry Douglas-fir PAG supported large trees with quadratic mean diameter (QMD) values among the highest of the study (Table 3). The lowest QMD values occurred in the cool mesic Douglas-fir PAG. (@ 582)

Indeed, this also calls into question are natural disturbances – i.e. wildfire, weather, climate, insects and disease -- which creates snag habitat and large diameter woody surface material that are source of food & shelter for myriad focal, sensitive and ESA-listed species, being short-changed in what seems to be a clash between timber production and biological diversity? At the finest scale, animals use habitat features

[25] LeFevre, M.E., Churchill, D.J., Larson, A.J., n M.A. Jeronimo, Bass, Franklin, J.F., and Kane, V.R. 2020. Evaluating Restoration Treatment Effectiveness through a Comparison of Residual Composition, Structure, and Spatial Pattern with Historical Reference Sites. Oxford University Press *For. Sci.* 66(5):578–588

associated with specific forest structure attributes (e.g., snags for foraging and nesting); at the meso-scale (sub basin or watershed scale). (Stine 2014)

A hundred year old >20 inch dbh tree cannot be replaced in a few decades. The fact is HRV and FRV are a new and evolving science that has not stood the test of time, based on historical interpretation based on modelling developed in a distant location and, looking at an uncertain future acceleration of climate impacts, a timescale of 40 years is far too short to demonstrate success or failure of this project and its potential cumulative variabilities.

7. LRMP Amendment will not Increase LOS / Old Growth

The Vegetation Resource Specialist Report, 9.0 Glossary, lacks definition re best available science. Is the FS using the most scientific research most applicable to project area conditions-based management?

The aforementioned lack of OG in the Forest and across R6 warns that cutting mature and LOS as prescribed up to 24.9" dbh and amending NWFP S&G (NWFP C-12) to allow logging of up to 2,569 acres of stands over 80 years old and include a mix of young and old forest will not achieve Historic Range of Variability.

Proposed logging will decrease the abundance of large diameter trees and impede the stated objective of increasing LOS, while also reducing per/acre forest carbon, degrading fish, vegetation & wildlife habitat, reducing above and below ground carbon storage and degrading soil ecosystem habitat for amphibian, vegetation, macro/micro invertebrates that are critical food sources and recyclers of detritus necessary for building and maintaining soil tilth.

Midnight Project will have a massive impact on the natural environment, affecting wildlife and scenic integrity for many decades to come. It is obvious, this massive logging project is about timber production at the expense of region-wide public interests, including hunters, wildlife enthusiasts, mushroom advocates and recreationists.

This project is not an ecosystem restoration project, it is more appropriately defined as an engineered forest ecosystem project.

8. Climate Change

A tree on the back of a log truck on its way to a mill and from there to human development, is dead as it can be and will never be part of a healthy forest ecosystem. Historically, forests did not evolve with modern wood extraction systems nor the economic system that drives the bus as it were, and in its currently highly mechanized version, it far outpaces natural ecological process associated for forest ecosystems.

When it comes to climate, there is a big difference between meteorology and climatology, the former being much about near term weather forecasting, the latter it trends that occur over decades, centuries and millennia. The impacts of climate change weaken the Service's assumption that remaining trees will "grow more vigorously" after commercial "thinning," or that diverse tree species will flourish following burning or modified clearcuts. Historic reference conditions are those of the recent past, a history rife with landscape-scale logging of ancient forests. Climatologically, several years of continuous drought and severe wildfire is not an anomaly. Such has occurred many times during the past thousand years.

Outcomes of this project will NOT improve ecosystem resilience to climate change. One only needs to peruse your "Final Climate Change, Greenhouse Gases, and Carbon Sequestration Resource Specialist Report" (Climate Report) reading between the lines, "thin, harvest, decrease stand density, reduce density" underscores what "reliance" this project is all about: producing timber. Quoting from this documents Table 1, p3, Increase Resilience of *Forest Stands to Disturbances by Increasing Tree Vigor*:

- Thin to accelerate development of late-successional forest conditions
- Harvest to variable densities
- Thin to decrease stand density and increase tree vigor
- Reduce density of post-disturbance artificial regeneration
- Increase stand-level biodiversity and minimize monocultures

This same climate report (Climate Report @4) makes and unfounded statement: "Where forests are allowed and able to regenerate, they grow again and are able to resume their function as carbon sinks." Perhaps futuristically several decades hence, yet this very report notes that "changes in precipitation are more uncertain than for changes in temperature." (Climate Report @ 1) Yes, but the point isn't that less certainty translates to less importance – both are uncertain as is their collective value. Regenerated forest saplings will take >70 years growth to come close to storing the same quantity of carbon as an 18" dbh tree does, regardless if dead or alive.

One thing that is for certain, a tree cut and removed from the forest will most certainly reduce forest carbon storage over the long term.

9. Dead Trees do not Create Conditions for Fast Moving Wildfire

A substantial body of evidence shows that such largescale tree removals will have cumulative and mostly negative ecosystem and climate consequences, reducing the ability for ecosystems to regenerate after severe natural disturbances, emitting vast quantities of carbon from commercial logging activities, and increasing the risk of fires and floods.

Not only does broad-scale dead tree removal fail to reduce fire risk, but it also accelerates the release of greenhouse gases by emitting stored carbon from the forest. And such logging also removes the biological legacies (e.g., live, dead and down trees; surviving shrubs; and seed banks) that are important to the natural processes of ecosystem regeneration and development. Severe fire generates a critical pulse of biological legacies that "lifeboat" forests from the pioneering stage through later stages of succession. Legacies, in turn, provide habitats for numerous wildlife species and are important for long-term carbon storage. Logging can damage the associated flush of biological activity provided by legacies, damaging an essential phase of forest renewal.[26]

Prescriptively defining structure is not simply a cookie-cutter numeric equivalent. Because of the great variation in old growth stand structures, no set of numbers can be relied upon to correctly classify every stand.[27]

10. Wildfire Misrepresented: Risk Overstated, Fire Ecosystem Benefits Downplayed and Carbon Storage Ignored

If reducing wildfire was truly the objective of Project activities, retention of all larger diameter trees, restricting cattle grazing to select low-elevation pastures and avoiding building new roads and reconstruction over 81 miles of roadbeds would be key objectives. Roads are associated with the majority of wildfire ignitions including some of the largest and most catastrophic wildfires. The increase in extent and severity of disturbances such as wildfires and insect outbreaks in forests globally has led to calls for greater level of "Active Management" including in old growth stands that are of high conservation value. Thinning, selective logging of large trees (that are sometimes fire resistant), post-disturbance (salvage) logging, recurrent prescribed burning, and road building; singularly or in combinations because AM may have substantial impacts on ecosystem conditions and biodiversity, and could amplify subsequent natural disturbances.[28]

"The most effective thing that we can do is to allow trees that are already planted, that are already growing, to continue growing to reach their full ecological potential, to store carbon, and develop a forest that has its full complement of environmental services."[29] Wood products have a relatively short term duration compared to long-lived old and

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[26] DellaSalaa, D.A., et al. 2025. Removing dead trees will not save us from fast-moving Wildfires. https://doi.org/10.1073/pnas.2510922122

[27] *Ibid*

[28] Lindenmayer, L., et al. 2025. When Active Management of high conservation value forests may erode biodiversity and damage ecosystems. https://doi.org/10.1016/j.biocon.2025.111071

[29] Moomaw, W. 2019. Why Keeping Mature Forests Intact Is Key to the Climate Fight. Yale 360, Yale School of the Environment.

mature trees. Wood based panels (with an assumed 25-year average lifespan and a 10 % recycling rate) and sawn wood (with an assumed 35-year average lifespan and a 30 % recycling rate). [30]

Logging and cattle grazing lead to thickets of young conifer saplings and forest vegetation that will contribute to wildfire. Immature forest pose a high risk of wildfire due to the abundance of fine fuel, small branches and leaves, near the ground. It turns out the age and composition of forests makes a big difference in what role they play in preventing wildfires and storing carbon. Old growth forest is the best at both, but there is very little old growth left in either the western or eastern United States.[31]

Regeneration/clearcut/over-story removal will lead to increased wind and solar infiltration, drying soils & vegetation, the loss of perennial streams and ponds – in all further degrading natural historic ecological processes. What is clearly at work here in restoration of historic timber program - common sense long ago departed the National Forest timber program. A century of logging has not reduce wildfire risk in the West or British Columbia

11. Riparian Reserve Logging will further degrade aquatic species habitat

A total of approximately 2,276 acres of pile burning and underburning treatments will occur within Riparian Reserves. In addition, the still undefined logging in RR is intimated in the Aquatic Specialist Report:

> *The Riparian Reserve Thin treatments in Alternative 2 would remove conifers up to 21 inches in dbh from below to 40-50 trees per acre within the 10- to 21- inch dbh size classes. Trees that are 21-24.9 inches dbh may be considered for removal only if they are identified as a hazard tree; have a dwarf mistletoe rating ≥ 2 and are within 40 feet of a large healthy uninfected preferred leave tree species with a minimum of 18 inches dbh; or to meet ecologically based density objectives for large, old trees (see Final EA, Appendix A, Common Prescription Elements). The Stand Improvement Thin treatment would remove trees less than 10 inches dbh to restore riparian forest overstory and understory composition and reduce fuel loads to mediate fire delivery to and behavior in riparian corridors. (Midnight Aquatic Specialist Report, A 19-20)*

[30] Brunet-Navarro. 2016. The effect of increasing lifespan and recycling rate on carbon storage in wood products from theoretical model to application for the European wood sector. DOI 10.1007/s11027-016-9722-z

[31] Christenson, N, Franklin, J. 2023. New Trees Are No Substitute for Old Trees. Politico June 11, 2023

"Greater total taxa, total fish, and adult trout densities were associated with streams draining more severely burned watersheds, whereas sculpin, amphibian and crayfish densities appeared uninfluenced by burn severity."[32]

12. Roads / Livestock Grazing

Reconstructing old roads has ecological impacts to ecosystems similar to new road construction. Currently, roads exceed LRMP desired conditions in Focused Restoration in the project area. Construction reconstruction, restoration, maintenance and of roadways in the Project area will have significant impacts on aquatic and terrestrial species. In the winter, this road system added to regeneration clearcuts and reduced tree spacing will dramatically increase over snow motorized during the time of year when wildlife such as TES species lynx and elk are at a heightened level of stress.

Cumulatively, commercial logging, roadwork and livestock grazing will impact sensitive wildlife seclusion and reduce landscape permeability to migrating TES species. Silvicultural treatments will degrade snowshoe hare and red squirrel habitat, impacting lynx habitat suitability and in violation of the Forest Plan (STD WL 06; GDL WL 06).

Livestock Grazing Analysis not included in Cumulative Affects Analysis

"The goal for rangeland management is: 1) intensely manage range resources to achieve a high level of range outputs while protecting the basic productivity of the land, and 2) provide for the production of wildlife, recreation opportunities, and other resources." (Range Management Specialist Report @2)

LRMP The direct, indirect, and cumulative impact of livestock grazing is not reasonably analyzed and impacts to terrestrial and aquatic species are not addressed, threatening species habitat viability.

Specialist Report states that Allotment Management Plans (AMPs) contain comprehensive monitoring plans. This report states that 66% of the 31,000 acre allotments area would be impacted by project action alternative. Just as described in logging prescription layout, the likelihood that staff are available for such monitoring is uncertain and that historically has been shown to occur. "Maintenance costs associated with clearing downed trees and other debris on closed and decommissioned roads would further reduce management efficiency."(Range Report @4)

Guideline GM-2 do not exceed 40% utilization of mean annual vegetative production on woody and herbaceous vegetation appears to be in conflict with **MA14-11A**: 85% of the

[32] Swartz, A.G. 2025. Following megafires fishes thrive and amphibians persist even in severely burned watersheds. Communications earth & environment. https://doi.org/10.1038/s43247-025-02893-y

annual available browse on winter range shall be for wildlife and 15% for domestic livestock.

Cows need lots of water every day, shade and cool temperatures found along waterways. Project activities may not address and in fact exacerbate aquatic systems functioning at risk. Logging activities in riparian areas would be reseeded with grasses that will attract cattle leading to damage to soil damage, creating a seedbed for spread of thistle and other non-native invasive species. Grazing will impact ESA-listed fish and other aquatic species.

Cumulative impacts assessment is lacking in any meaningful way and thus do not meet legal requirements. The FS fails to take the requisite hard look at how the Project activities cumulative impacts combined with livestock grazing, climate change; loss of prey base for gray wolf, grizzly bear, Canada lynx and other carnivores; ungulate forage lost to domestic livestock, road construction/reconstruction, loss of soil carbon exacerbated by loss of vegetative cover leading to soil heating, damage to sensitive plants and wetlands.

13. Wildfire Misrepresented, Risk Overstated, Fire Benefits Ignored

Thinning (11,374 acres of commercial harvest overstory thinning and 13,503 acres of non-commercial understory thinning outside the commercial harvest areas), prescribed fire (27,352 acres), construction of fireline (129.2 miles), and road modifications on National Forest System lands (reconstructing roads and decommissioning of other roads) proposed in the Midnight Restoration Project (further described in Section 2.1.1 of this report and Appendix A of the Midnight Restoration Project EA [herein Appendix A]) are consistent with many of the actions that address climate change adaptation strategies listed in Table 1 (adapted from Raymond et al., 2014).

Raymond 2014 research is more than ten years old.

Thanks to Freedom of Information Act response records reveal the true backstory marketing scheme behind wildfire risk reduction, healthy forests and other public relations memes used by the FS to convince legislators, educators and public of its efficacy managing Public Land. FOIA docs show this was a ruse, and further, FS privately lobbied forest-consuming timber industry to adopt its talking points and of course providing grants to university researchers to support its objectives.

The fact is there is peer-reviewed science that draws an opposite conclusion which the Forest Service must acknowledge.

An often stated purpose for this project is wildfire risk reduction. Little to no discussion regarding studies that thinning not regeneration / clearcut / overstory removal - where 60% or more of the overstory is logged – is by definition – not thinning. The number of trees cut could be increased to make a logging unit economically profitable for the mill as noted in Appendix A @ 7. 'Could' is the variable, here, yet to be determined.

It turns out research of effective wildfire risk reduction through non-commercial logging is very effective. Here is a sampling of many research findings on the subject:

The most effective treatment was the combination of thinning and prescribed fire. This treatment had a mean reduction of 72 percent in later wildfire severity. Thinning and pile burning combined and prescribed burning alone both saw a decrease in wildfire severity of 62 percent. Thinning without removing surface fuels was less effective—an average reduction in fire severity of 27 percent—and in some cases led to higher wildfire severity than in nearby untreated areas. (Rocky Mountain Research Center, U.S. Forest Service– Science You Can Use, June 2024)

"Using field sampling informed by fire history data from 1870 to 2020, we investigated the influence of fire frequency (once, twice, and thrice burned from 1910 to 2017) on forest structure, conifer regeneration, and fuel loading in mesic mixed-conifer forests that burned at high severity in either 1910 or 1934. Tree regeneration was abundant across all three burn histories, and 99% of sample sites were <200 m from the nearest conifer seed source when sampled in 2021. Abundance of snags and coarse woody material was less affected by fire frequency and more impacted by time since last fire. High shrub biomass occurred only on steep southwest aspects with low overstory basal area and was not related to burn history. Live tree composition and density differed across forests with contrasting recent fire histories, but even thrice-burned sites supported abundant conifer tree regeneration, indicating that northern Rocky Mountain mesic mixed-conifer forests that experienced fire during the twentieth century currently remain resilient to wildfire. Wildfire as an ecological process in the Selway-Bitterroot Wilderness likely contributed to ecosystem resilience."[33]

"The resultant attempted subjugation of nature to control wildfire via suppression and "active management" is analogous to 20th century control of apex predators (e.g., Ursus arctos horribilis, Canis lupus), which led to cascading ecological effects (Ripple et al., 2014). Wildfires are now summarily treated as a predatory process to be constrained at all costs. Consider recent calls by decision makers demanding land management agencies start immediately to put out all fires …even though they can only feasibly steer, not "control" wildfires under extreme fire weather."[34]

Will the collision of this scientific research about wildfire risk reduction run headlong into the need to make logging profitable for the timber industry? We await your answer.

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[33] Jaffe, M.R., et al. 2023 Mesic mixed-conifer forests are resilient to both historical high-severity fire and contemporary reburns in the US Northern Rocky Mountains. Forest Ecology and Management 545 (2023) 121283

[34] DellaSalla, D.A., et al. 2022. Have western USA fire suppression and megafire active management approaches become a contemporary Sisyphus? https://doi.org/10.1016/j.biocon.2022.109499

Shaded fuel breaks don't work in most severe fire weather conditions which are nearly always driven by wind. Recent research found a 1% chance of any forest acre burning per year. Shaded fuel breaks at best have temporary ladder fuel and surface fuel impacts and must be maintained on a regular <20 year basis.

Will fire-prevention efforts be focused on the WUI? What width specification will be used in designating the WUI? Many of the proposed treatment units are well away from WUI's. In the EA/EIS, please provide information distinguishing WUI prescribed burns from burns with other objectives.

Shaded fuel breaks create a barrier to movement and use of seclusion dependent species, including many LRMP focal species.

14. Site Specific Forestry Prescriptions Lacking

Designation by Description and Condition-Based Management are both synonymous for what amounts to 'will figure this out when we have to.' As the EA, Appendix A alludes:

> *"Openings would be identified in each unit by district staff prior to implementation, using natural clearings where appropriate." (Appendix A, p 12, Overstory Thinning – Matrix)*

Openings – treeless clearings – *"would generally range from 1/2 to 1 acre … [or] up to 2 acres may be warranted."(Ibid)* The question is – where will this occur, how far apart will these clearings be? How can the public ascertain potential actions when the Forest Service doesn't know or won't reveal where these actions might occur?

The lack of specificity of Alternative 2, Appendix A – Late Successional Reserve Prescriptions in LSRs with "dense" large trees are anything but prescriptive or location specific and certainly confusing.

> *"Of the total 3,164 acres of LTDF in the project area, about one third (1073 acres) are proposed for treatment.* For example, a LTDF stand may have a majority of trees in the 15-20-inch dbh size class and fewer trees over 20 inches. Thinning may mostly occur in the 15-21-inch size class resulting in the transition from LTDF into a "large tree open canopy forest" condition even though no trees over 20 inch dbh have been harvested.

Some locations within proposed treatment areas in the LSR are characterized as 5-acre or larger patches of "large tree – closed canopy forest…. cover. *Most patches* of "large tree – closed canopy forest" within treatment units will retain 50% canopy cover, even when the surrounding thinning prescription specifies a post-treatment canopy cover of 40%. *In some locations*, these patches will be thinned to 40%, moving them to "large

tree – open forest" ba 40%. *In some locations*, these patches will be thinned to 40%, moving them to "large tree – open forest."

Figure 11, Vegetation Specialist Reports reveals significant removal of trees in closed canopy forests:

40 year projected structure
Old forest multi-story (968 acres)
Old forest single story (2,718 acres)
ots (41 acres)*
Stem exclusion closed canopy (87 acres)
Stem exclusion open canopy (12,379 acres)
Stand initiation (5 acres)
Understory re-initiation (1,191 acres)
Young forest single story (7,823 acres) - <10" dbh,
*This was not included in definition of abbreviations

The Midnight Project will significantly impact terrestrial and aquatic TES species, focused on creating open structure forest that does not reflect historic moist forest structure, retaining a paltry 40% canopy cover on 22,920 acres. For perspective, 60% canopy removal equals about 13,752 acres of openings out of 22,920. This would not accurately reflect Stand 733 in 2027 nor 2065, pictured in Figure 14 @ 41, Midnight Vegetation Report.

Conclusion

KRCG appreciates your consideration of the information and concerns in this Objection, pursuant to 36 C.F.R. § 218.11. We respectfully request the reviewing officer allow adequate time for Objector to prepare thoroughly for any resolution meeting and that only objectors and officially registered interested parties be invited to participate in the meetings. If you have any questions, please do not hesitate to contact us.

Sincerely,

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