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December 12, 2025

Jacqueline Buchanan
Regional Forester
1220 SW 3rd Ave.
Portland, OR, 97204

Via project website <https://cara.fs2c.usda.gov/Public/CommentInput?Project=63961>

RE: Little White Salmon Forest Resiliency and Fire Risk Mitigation Project Objection

Dear Ms. Buchanan:

The Cascade Forest Conservancy (CFC) submits the following objection to the U.S. Forest Service's Draft Decision Notice and Finding of No Significant Impact for the Gifford Pinchot's Little White Salmon Forest Resiliency and Fire Risk Mitigation Project Final Environmental Assessment (EA). This project affects the Forest Service lands within the Gifford Pinchot National Forest. The Responsible Official for this project is Forest Supervisor Johanna Kovarik.

As required by 36 C.F.R. § 218.8(d), the following is the lead objector's name, address, and telephone number:

Ashley Short
Cascade Forest Conservancy
2200 Broadway St., Suite L
Vancouver, WA 98663
(503)222-0055
ashley@cascadeforest.org

I. Interest and participation of objecting parties.

CFC is an independent nonprofit conservation organization with offices in Washington. CFC's mission is to protect and sustain the forests, streams, wildlife, and communities in the heart of the Cascades through conservation, education, and advocacy. We represent over 12,000 members and supporters who share our vision for a forest where wild places exist and wildlife thrives. We have an organizational interest in the proper and lawful management of the Gifford Pinchot National Forest.

We submitted timely comments on the Forest Service's Invitation to Comment and Draft Environmental Impact Statement. Our comment letter dated October 31, 2024 addressed the issue of forest plan amendments with respect to the visual quality proposed amendments. However, the proposed forest plan amendment exempting the project from pre-disturbance Survey and Manage (S&M) wildlife surveys is a new issue that was raised for the first time by the Forest Service in the Draft Decision, FONSI, and the Final EA. The public notice for the Draft Decision was published on October 31, 2025 in *The Columbian*. This objection is submitted electronically within 45 days of the publication date and is, therefore, timely under 36 C.F.R. § 218.7.

II. Issues and parts of the decision to which the objection applies.

As presented in Section III, CFC believes the Forest Service's decision, including the Draft DN, FONSI, and Final EA violates law, regulation, or policy in numerous ways including:

- a. The proposed S&M amendment is unlawful and violates the National Forest Management Act (NFMA).**
- b. The determination that the amendment is directly related to no substantive provisions of the 2012 planning rule is arbitrary and capricious in violation of NFMA.**
- c. The Forest Service failed to afford the public adequate opportunity for public participation in the S&M amendment as required by the 2012 planning rule.**

III. CFC identified the following parts of the decision for objection.

- a. The proposed S&M amendment is unlawful and violates NFMA.**

The proposed amendment exempting the project from compliance with forest plan pre-decision survey & manage requirements fails to comport with the requirements for project-specific forest plan amendments as described in the Forest Service's 2012 planning rule. NFMA and its implementing regulations subject forest management to two stages of administrative decision

making. At the first stage, the Forest Service is required to develop a Land and Resource Management Plan, also known as a Forest Plan, which sets forth a broad, long-term planning document for an entire national forest. At the second stage, the Forest Service must approve or deny individual, site-specific projects. These individual projects must be consistent with the Forest Plan.¹

The 2012 Planning Rule requires the following process for every plan amendment: 1) determine the need for a forest plan amendment, 2) identify which of the substantive requirements in 36 C.F.R. §§ 219.8 through 219.11 are “directly related” to the needed amendment, 3) apply those sections of the Planning Rule to the amendment, and 4) create new Forest Plan requirements that address the same protection needs.²

The 2012 Planning Rule also has requirements for public notification and involvement, including what must be in the initial notice alerting the public to a possible forest plan amendment. The initial notice must include “which substantive requirements of §§ 219.8 through 219.11 are likely to be directly related to the amendment.”³ The agency must also “amend the plan consistent with Forest Service NEPA procedures.”⁴ Here, the proposed S&M amendment fails to comply with most of the forest plan amendment steps including failing to identify directly related substantive requirements of the Planning Rule implicated by the proposed amendment, failing to apply any substantive requirements of the Planning Rule to the proposed amendment, and failing to provide public participation and notification regarding the amendment consistent with NEPA procedures. For example, the amendment was not consistent with Forest Service’s NEPA procedures, which required scoping and a public comment period prior to the objection process.⁵

Additionally, the agency’s position that surveys are not required prior to ground disturbing activities is inconsistent with the Northwest Forest Plan as outlined in *Oregon Natural Resources Council v. USFS*, 59 F.Supp.2d 1085 (W.D. Wash. 1999). The Court in *Oregon Natural Resources Council* highlighted that the Forest Service is required to conduct S&M surveys as soon as possible so that the information from surveys can be used in making treatment decisions.

The agency’s position is also inconsistent with the 2001 Amended Survey & Manage Record of Decision’s discussion on timing of surveys:

¹ 16 U.S.C. § 1604(i) (2024); 36 C.F.R. § 219.15 (2025); *Great Old Broads for Wilderness v. Kimbell*, 709 F.3d 836, 851 (9th Cir. 2013) (“the NFMA prohibits site-specific activities that are inconsistent with the governing Forest Plan”); see also *Neighbors of Cuddy Mtn. v. Alexander*, 303 F.3d 1059, 1062 (9th Cir. 2002) (“[s]pecific projects ... must be analyzed by the Forest Service and the analysis must show that each project is consistent with the plan”).

² 36 C.F.R. § 219.13 (b) (2025).

³ 36 C.F.R. § 219.13 (b)(2) (2025).

⁴ 36 C.F.R. § 219.13 (b)(3) (2025).

⁵ Since the Forest Service applied the previous NEPA regulations throughout the project those regulations still apply. See *Bair v. California Dep’t of Transp.*, 982 F.3d 569 (9th Cir. 2020) (“Because the Federal Defendants applied the previous regulations to the Project, the Court does so as well.”)

The intent of “surveys prior to habitat-disturbing activities” is to gather relevant information during the NEPA process so that it is available for the decision-maker before actions are taken. Ideally, this information would be available to the Interdisciplinary Teams during preparation of an EA or Draft EIS so it could be used in project analysis, formulation of alternatives, and evaluation of effects. Required surveys should be completed and their results included in an EA or Draft EIS whenever practicable. This would have the added advantage that results would be available during the public review and comment process.

Project schedules could be severely disrupted if the requirement for additional pre-disturbance surveys were imposed after the decision is made and final design, field layout, or contract preparation has begun. Therefore, the date of the decision is the cut-off date for the requirement to conduct “surveys prior to habitat-disturbing activities.” In other words, once the decision is made no additional survey requirements are imposed; no NEPA analysis will have to be re-done and no decisions will have to be re-made because of additional survey requirements.”⁶

The Draft Decision and Final EA ignore both *Oregon National Resource Council* and the S&M ROD and instead claim that:

Allowing required pre-disturbance surveys to occur post-NEPA decision but prior to final project planning and implementation would minimize impacts to project delivery while meeting the intent of Survey and Manage provisions. Additionally, surveys conducted closer to actual disturbance would more accurately reflect current habitat conditions and species presence. I find that the amendment is needed to meet the purpose and need of the project.⁷

This reasoning contradicts the reasoning of the ROD and therefore is inconsistent with the Northwest Forest Plan and violates the NFMA.

⁶ USDA FOREST SERVICE, RECORD OF DECISION AND STANDARDS AND GUIDELINES FOR AMENDMENTS TO THE SURVEY AND MANAGE, PROTECTION BUFFER, AND OTHER MITIGATION MEASURES STANDARDS AND GUIDELINES, STANDARDS AND GUIDELINES - 24 (2001).

⁷ USDA FOREST SERVICE, GIFFORD PINCHOT NATIONAL FOREST, DRAFT DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT FOR THE LITTLE WHITE SALMON FOREST RESILIENCY AND FIRE RISK MITIGATION PROJECT, 12 (2025).

b. The determination that the amendment is directly related to no substantive provisions of the 2012 planning rule is arbitrary and capricious in violation of NFMA.

A “substantive requirement” is “directly related” to the amendment when the requirement “is associated with either the purpose for the amendment or the effects (beneficial or adverse) of the amendment.”⁸ The 4th Circuit⁹ in *Sierra Club v. U.S. Forest Serv.*, concluded “that the only way to read . . . § 219.13(b)(5)(ii), is to require the agency to look to both the purpose and effect of the amendment, and if the substantive issue (i.e. soil, water) is based upon or associated with either one, it is directly related.”¹⁰ In that case, the Forest Service decided that because mitigation measures would minimize impacts to soil and water resources, the amendment would not cause “substantial adverse effects” or a “substantial lessening of protections” and therefore those provisions were not “directly related.”¹¹ The Court did not agree with the Forest Service, instead finding that even if there were no substantial impacts to soil and water, the purpose of the amendment was to exempt the project from forest plan requirements because the project could not meet those requirements, meaning the amendment’s purpose was directly related to multiple substantive requirements of the 2012 planning rule.

Similar to *Sierra Club v. U.S. Forest Serv.*, in this case the agency has focused on the effects of the amendment and failed to adequately consider its purpose.¹² The Draft Decision states “[c]onsidering the scope and scale described above, I determined there are no related substantive requirements [for the S&M amendment] based on the purpose and/or effects of the amendment.”¹³ This determination is erroneous. At the very least the proposed amendment is directly related to § 219.9 *Diversity of plant and animal communities*.¹⁴ The EA seems to even inadvertently suggest this relationship by claiming that surveys conducted closer in time to when harvest would occur would provide more accurate information about species location. “As an added benefit, surveys conducted closer to actual disturbance would more accurately reflect current habitat conditions and species presence.”¹⁵ Indeed, as the Court in *Oregon Natural Resources Council Action* explained regarding the S&M survey requirements, “for many species,

⁸ *Sierra Club, Inc. v. U.S. Forest Serv.*, 897 F.3d 582, 602 (4th Cir. 2018).

⁹ The 4th Circuit, unlike the 9th Circuit, has considered whether forest plan amendments are “directly related” to “substantive requirements” of the 2012 planning rule. The 4th Circuit’s consideration of the 2012 planning rule can be found in the following three cases: *Sierra Club, Inc.*, 897 F.3d 582; *Cowpasture River Pres. Ass’n v. Forest Serv.*, 911 F.3d 150 (4th Cir. 2018); and *Wild Virginia v. U.S. Forest Serv.*, 24 F.4th 915 (4th Cir. 2022).

¹⁰ *Sierra Club, Inc.*, 897 F.3d at 602.

¹¹ *Id.* at 602-603.

¹² *Id.*

¹³ USDA FOREST SERVICE, GIFFORD PINCHOT NATIONAL FOREST, DRAFT DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT FOR THE LITTLE WHITE SALMON FOREST RESILIENCY AND FIRE RISK MITIGATION PROJECT, 13 (2025).

¹⁴ 36 C.F.R. § 219.9 (2025).

¹⁵ USDA FOREST SERVICE, GIFFORD PINCHOT NATIONAL FOREST, LITTLE WHITE SALMON FOREST RESILIENCY AND FIRE RISK MITIGATION PROJECT: FINAL ENVIRONMENTAL ASSESSMENT, 8 (2025).

surveys are the principal means of ensuring that their viability [under NFMA] will not be ended by logging.”¹⁶ Section 219.9 of the 2012 Planning Rule implements the viability requirement of NFMA, and is therefore directly related to a proposed plan amendment that dispenses with the survey requirement of the Northwest Forest Plan. Additionally, the purpose of the amendment is to exempt the project from Northwest Forest Plan wildlife surveys because the project cannot otherwise meet S&M requirements, meaning the purpose of the amendment is directly related to the species viability requirements implemented by § 219.9 of the planning rule.

The failure to identify *any* directly related substantive provisions of the 2012 planning rule affected by the proposed amendment that affects species diversity and viability is arbitrary and capricious and violates NFMA.¹⁷

c. The Forest Service failed to allow the public adequate opportunity for public participation on the S&M amendment as required by the 2012 planning rule.

The 2012 planning rule has public involvement requirements, including requiring the Forest Service to conduct an amendment using the Forest Service’s NEPA procedures. At the time this project was initiated, the Forest Service’s NEPA procedures required scoping for every project.¹⁸ Here, the S&M amendment did not receive any scoping and instead was only presented by the Forest Service for the first time in the objection period, which is an administrative review process with different goals and outcomes than a comment period. For example, only those who have participated in the public comment process previously are statutorily allowed to object. “Individuals and entities as defined in § 218.2 who have submitted timely, specific written comments regarding a proposed project or activity that is subject to these regulations during any designated opportunity for public comment may file an objection.”¹⁹ Additionally, the purpose of an objection process is to alert the agency to legal deficiencies within the Draft Decision, FONSI, and/or Final EA, not to provide general feedback prior to the agency’s preliminary decision. In other words, the public (even those allowed to object) were not provided a forum to provide meaningful feedback on the proposed S&M amendment. The process has therefore violated the 2012 planning rule’s public participation requirements.

Is it clear that public engagement opportunities were not provided for the S&M amendment from not only a practical standpoint, but it is also clear from the regulations that the objection period is contemplated as something separate and distinct from comment periods. For example, when listing when formal notification is required for larger amendments and revisions, the rule

¹⁶ *Oregon Nat. Res. Council Action v. U.S. Forest Serv.*, 59 F. Supp. 2d 1085, 1088 (W.D. Wash. 1999).

¹⁷ 5 U.S.C. § 706 (2)(a) (2024).

¹⁸ 36 C.F.R. § 220.4(e)(1) (2024) (repealed July 18, 2025); USDA FOREST SERVICE, GIFFORD PINCHOT NATIONAL FOREST, SCOPING BROCHURE LITTLE WHITE SALMON FOREST RESILIENCY AND FIRE RISK MITIGATION PROJECT (2023).

¹⁹ 36 C.F.R. § 218.5 (a) (2024).

separates “to invite comments on a proposed plan, plan amendment, . . .” and “to begin the objection period for a plan, plan amendment, . . .” into separate requirements.²⁰ Therefore, the claim that the objection period will suffice as the public’s opportunity to provide feedback violates the 2012 planning rule and the NFMA.

IV. Suggested Resolutions

To address the unlawful S&M forest plan amendment the Forest could take one or more of the following actions to resolve our objection to the project:

- Split or phase the decision, leaving those stands that still need surveys to a subsequent decision document; or
- Pause the project and conduct a proper forest plan amendment process for the S&M amendment.

V. Conclusion

The Cascade Forest Conservancy appreciates your consideration of the information and concerns addressed in this objection. Pursuant to 36 C.F.R. § 218.11, we respectfully request to meet with the reviewing officer to discuss these concerns and suggested resolutions.

Sincerely,

A handwritten signature in black ink, appearing to read 'AShort', with a stylized 'A' and 'S'.

Ashley Short
Policy Manager
Cascade Forest Conservancy
Ashley@cascadeforest.org

²⁰ 36 C.F.R. § 219.16(a)(2)-(3) (2024).