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Darren Cross, District Ranger
McKenzie River Ranger District
57600 McKenzie Highway
McKenzie Bridge, OR 97413

Via: <https://cara.fs2c.usda.gov/Public/CommentInput?project=67580>

Subject: Strube Flats Fire Camp Comments

Dear District Ranger Cross,

Please accept the following comments from Oregon Wild concerning the proposed Strube Flats Fire Camp project (the “Project”) in the McKenzie River Ranger District (“MRRD”) as described in the notice dated February 18, 2026 (the “Project Notice”). Oregon Wild represents 20,000 members and supporters who share our mission to protect and restore Oregon’s wildlands, wildlife, and water as an enduring legacy for future generations. Oregon Wild has been involved in the management of Oregon’s national forests since the organization’s inception in 1974 as the Oregon Wilderness Coalition. Our goal is to protect areas that remain intact while striving to restore areas that have been degraded. This can be accomplished by moving overrepresented ecosystem elements (such as logged and roaded areas) toward characteristics that are currently under-represented (such as roadless areas and complex old forest).

The purpose of the Project is to designate a fire camp in the Strube Flats area to provide personnel support such as food, sleeping areas, sanitation, staging, and servicing of equipment during emergency response. The fire camp would be protected from unwanted public traffic through placement of three gates. There are two additional components to the Project. First, the Project proposes variable density thinning on up to 125 acres in 9 30-40-year-old plantation stands. Such variable density thinning would consist of thinning, dominant tree release (.25 acres), gaps up to 3 acres, and unthinned skips. Thinning would utilize ground-based and skyline logging equipment and would retain at least 40% canopy cover in the thinned areas. Associated activities would consist of road maintenance, but no permanent road construction or culvert replacement. The Project Notice states that thinning in these stands would slow fire spread, making the proposed camp more defensible in case fire spreads near the camp.

Second, the Project proposes to improve 6 acres for a permanent log decking and equipment staging site in a previously salvaged stand that has been used during wildfire suppression in recent years. Improvements for this long-term equipment staging site would utilize existing landings and temporary roads from previous harvest operations. The Project Notice

characterizes this staging site as necessary to separate heavy equipment from emergency response personnel. The staging area would also be protected from unwanted public traffic by placement of one gate.

The Forest Service plans to complete a Finding of Applicability and No Extraordinary Circumstances in accordance with the interim final rule issued on July 3, 2025. The Project proposes to use three categorical exclusions (“CE”) independently of each other: NPS B(1) (516 DM 12) (“NPS B1”), 18 CFR Appendix A to Subpart-C-of-Part-1318 31.a (“TVA 31”), and 7 CFR 1b.4(d)(45) (“USFS 45d”). NPS B1 will be used for adding the four gates and closing the 4 proposed roads that enter the fire camp and staging area, TVA 31 will be used for the variable density thinning portion of the Project, and USFS 45d will be used for improvements to the log decking and equipment staging site.

Please consider the following comments on the Project.

1. Combination of multiple CEs for the Project.

Oregon Wild is concerned that the Project proposes using three CEs independently of each other to approve the Project. The National Environmental Policy Act (“NEPA”) requires agencies to prepare an environmental assessment with respect to a proposed agency action that does not have a reasonably foreseeable significant effect on the quality of the human environment, or if the significance of such effect is unknown. 42 U.S.C. § 4336(b)(2). NEPA contains a carve out from this requirement if an agency finds that the proposed agency action is excluded pursuant to one of the agency’s categorical exclusions, another agency’s categorical exclusions, or another provision of law. *Id.* CEs are designed to streamline environmental review for categories of proposed actions that federal agencies have determined do not normally significantly affect the quality of the human environment. However, by applying multiple CEs to a single project, the Forest Service is undermining NEPA’s purpose of determining significant impacts on the environment and defeating the purpose of CEs which *individually* do not normally have significant impacts on the environment. By proceeding with three independent CEs, how can the Forest Service truly understand the environmental significance of the Project as a whole? Ultimately, application of multiple CEs to a single project, such as in the Strube Flats Project, may amount to a violation of NEPA.

The Ninth Circuit Court of Appeals recently addressed the issue of using multiple CEs for a single project in *Friends of the Inyo v. United States Forest Service*, 103 F.4th 543 (2024). In that case, the court struck down the Forest Service’s use of two CEs for a single project. The district court acknowledged the potentially absurd results that might flow from allowing a patchwork application of CEs to a single proposed action and provided an illustrative example of how multiple CEs could be used to approve various portions of a single mining project. *Id.* at 556. In turn, the Ninth Circuit acknowledged that a case need not be extreme to prohibit combination of multiple CEs; consequences can flow from any combination of CEs. “Any project can be broken down into seemingly innocuous independent acts. The fact that the Forest Service has found CEs ‘normally do not have a significant effect on the human environment,’ does not

mean they have *no* effect, and combining carefully defined exclusions renders these calculated risks unknown.” *Id.* At 557 (citations omitted) (emphasis in original).

Part of the reason that using multiple CEs for a single project violates the intent of NEPA is that many CEs “include time and space limitations that would be futile if they could be duplicated or combined.” *Id.* at 555. For example, USDA-37d-USFS, 7 C.F.R. § 1b.4(d)(37), permits commercial and non-commercial sanitation harvest of trees to control insects or disease not to exceed 250 acres, requiring no more than 1/2 mile of temporary road construction. USDA 46d-USFS, 7 C.F.R. § 1b.4(d)(46), permits construction and realignment of up to 2 miles of National Forest System roads and associated parking areas. Could the Forest Service design a project to conduct commercial or non-commercial sanitation harvest and build 2.5 miles of roads by combining the two aforementioned CEs? As noted by the Ninth Circuit, combining these CEs “would undermine their limits and violate the basic principle that ‘[a] statute or regulation should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant.’” *Id.* At 556 (citing *Nacarino v. Kashi Co.*, 77 F.4th 1201, 1210 (9th Cir. 2023)).

The MRRD should reconsider application of multiple CEs to the Project and instead evaluate the environmental impacts using an environmental assessment. Otherwise, the MRRD is circumventing true analysis under NEPA and neither the Forest Service nor the public will fully understand the environmental impacts of the Project.

2. Application of TVA 31 and NPS B1 to the Project.

Oregon Wild is also concerned about the proposed use of TVA 31 and NPS B1 for the Project, irrespective of the combination of multiple CEs to accomplish a single project, because the Forest Service failed to meet NEPA’s requirements for adoption of CEs under Section 109 of NEPA when the Forest Service adopted TVA 31 and NPS B1. Section 109 permits agencies to adopt categorical exclusions listed in another agency’s NEPA procedures. To do so, the agency must: (1) identify the categorical exclusion listed in another agency’s NEPA procedures that covers a category of proposed actions or related actions; (2) consult with the agency that established the categorical exclusion to ensure that the proposed adoption of the categorical exclusion to a category of actions is appropriate; (3) identify to the public the categorical exclusion that the agency plans to use for its proposed actions; and (4) document adoption of the categorical exclusion. 42 U.S.C. § 4336c.

Adoption of TVA 31 and NPS B1 was documented by notice dated May 12, 2025 (“Adoption Notice”).¹ However, the Forest Service failed to meet requirement (2) because the Forest Service failed to provide any information regarding the required consultation with the Tennessee Valley Authority (“TVA”) and the National Park Service (“NPS”) to ensure that the proposed adoption of these CEs is appropriate. The Adoption Notice states:

¹ See U.S. Forest Service, *Adoption of Categorical Exclusions under Section 109 of the National Environmental Policy Act*, 42 U.S.C. 4336c (May 12, 2025), available at <https://www.fs.usda.gov/sites/default/files/05122025-Notice-to-adopt-timber-EO-CEs.pdf>.

In April of 2025, the Forest Service conducted consultation with the NPS and TVA to discuss the adoption of aforementioned categorical exclusions. The Forest Service' intended uses of all the CEs are consistent with the way these agencies have been relying on these CEs. The Forest Service explained that the agency intends to rely on the CEs to assist with expeditious and efficient natural resource management activities and to amend plans where applicable.

The Adoption Notice provides no further information regarding the purported consultation. There are no details concerning the discussion or evaluation that occurred during consultation; there is no record of TVA's or NPS's response to or involvement with the consultation; and there is no explanation of how the Forest Service and TVA or the Forest Service and NPS determined that the adoption of the CEs is appropriate for the Forest Service. The Forest Service cannot simply claim that it consulted with TVA and NPS without providing documentation to support its compliance with Section 109.

The Forest Service also failed to meet requirement (4) for adoption of TVA 31 and NPS B1. The Adoption Notice was published on the Forest Service website, but not in the Federal Register, as required under the Administrative Procedure Act ("APA") rulemaking requirements. CEs, including TVA 31 and NPS B1, constitute a "rule" under the APA which is defined as "the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy." 5 U.S.C. § 551(4). CEs, in part, codify an agency's future assessment of the environmental effects of particular projects or categories of projects and ultimately implement compliance with NEPA. When promulgating a rule, the APA requires agencies to: publish general notice of the proposed rulemaking in the Federal Register; give interested persons an opportunity to participate in the rulemaking through submission of written data, views, or arguments; and to publish the final rule no less than 30 days before its effective date. 5 U.S.C. § 553(b)-(d).

As stated above, the Adoption Notice was not published in the Federal Register. There was no opportunity for interested persons to participate in the required rulemaking by submitting comments on the proposed adoption of TVA 31 and NPS B1. There is no indication that the adoption of these CEs was published online no less than 30 days before the May 12, 2025 effective date. Accordingly, the Forest Service failed to properly adopt TVA 31 and NPS B1 as required by the APA, and their use in the Project constitutes an unlawful agency action. Compare the purported adoption of TVA 31 and NPS B1 to similar CE adoptions by the Department of the Interior which did include publication in the Federal Register.²

In addition to improper adoption, TVA 31 is not appropriate for use in the Willamette National Forest. TVA 31 is part of a class of actions that TVA determined do not individually or cumulatively have a significant effect on the human environment. As stated in the final rule establishing TVA 31, "TVA completed an internal review of its NEPA procedures and practices

² See Notice of Adoption of Categorical Exclusions Under Section 109 of the National Environmental Policy Act, 90 Fed. Reg. 27655 (June 27, 2025), *available at* <https://www.govinfo.gov/content/pkg/FR-2025-06-27/pdf/2025-11935.pdf>.

and identified the need to revise some of its procedures to more accurately address TVA's current mission, program areas, or organization structure.”³ TVA is a federally owned electric utility corporation supplying power in the southeast United States. The mission of TVA is inapposite to that of the Forest Service. The program area of the TVA is also completely removed from the Willamette National Forest. Accordingly, while TVA may have found that actions pursuant to TVA 31 do not have significant impacts on the environment, that analysis was based on the TVA service area, and the same conclusion is not necessarily true for actions in the western Oregon Cascades.

3. Variable Density Thinning.

Oregon Wild is generally supportive of thinning in dense, young plantation stands, but recognizes that thinning in young plantations still involves trade-offs that must be carefully evaluated and weighed in an environmental analysis. Trade-offs include, but are not limited to, carbon emissions that exacerbate global climate change, impacts from road construction and maintenance, impacts to federally listed species and designated critical habitat, long-term impacts to future recruitment of snags and deadwood, spread of invasive plants and weeds, and potential for increased fire hazard due to modified microclimates and increased growth of surface and ladder fuels. Accordingly, all thinning has negative effects that must be compensated for by beneficial effects. It is generally accepted that when thinning in very young stands, the benefits of treatment outweigh the adverse impacts, thus creating net benefits.

In particular, Oregon Wild notes the long-term adverse consequences that thinning has on snags and downed wood. As stated by Paul D. Anderson in 2013, “[t]wo common consequences of conventional thinning practices have been increased uniformity of forest structure and composition, and removal or delay in the development of dead wood as snags or down wood to meet habitat functions.”⁴ Intensive wood production practices may alter the cycle of structural development both by truncating succession before large structures develop and by removing most existing structures during harvest.⁵ In turn, these consequences have the potential to affect the habitat needs of various species in the long-term, including spotted owls and small mammals that make up their prey:

Several small mammals, such as the northern flying squirrel form the prey base for the Endangered Species Act (ESA) listed spotted owl and are among the species associated with abundant large dead standing and down wood. This presumably, is why spotted owls prefer to forage in stands with abundant standing and fallen dead wood (Table 2, North et al. 1999). The fruiting bodies of hypogeous fungi are a food source of northern flying squirrels and are also associated with down logs,

³ Procedures for Implementing the National Environmental Policy Act, 85 Fed. Reg. 17434 (Mar. 27, 2020), available at <https://www.govinfo.gov/content/pkg/FR-2020-03-27/pdf/2020-05964.pdf>.

⁴ Paul D. Anderson 2013. Two Decades of Learning about Thinning in the Ecosystem Management Era. https://www.fs.usda.gov/pnw/pubs/pnw_gtr880/pnw_gtr880_001.pdf in Density Management in the 21st Century: West Side Story PNW-GTR-880.

⁵ Hansen, A. J.; Spies, T. A.; Swanson, F. J.; Ohmann, T. L. 1991. Conserving biodiversity in managed forests - Lessons from natural forests. *BioScience* 41(6):382- 392.

suggesting that there are complex, indirect paths through which dead wood supports spotted owls (Amaranthus et al. 1994, Carey 2000).⁶

Accordingly, Oregon Wild urges the MRRD to ensure that sufficient trees are retained to develop into future snags and downed wood in the units proposed for thinning. Oregon Wild supports the removal of smaller, less vigorous conifer trees. The MRRD should aim to retain the largest trees within the stated mean diameters of 10.0 – 15.0 inches, and ensure that any large legacy trees present in the thinning stands are retained.

Additionally, the Project's stated purpose in thinning the selected stands is to slow fire spread to make the proposed fire camp more defensible should wildfire spread near the camp. In this regard, the MRRD should consider a thinning prescription that is more akin to a shaded fuel break that retains sufficient canopy cover to maintain cool microclimates beneath the canopy as well as limits sunlight exposure that increases the growth of surface and ladder fuels. Heavy thinning will stimulate the growth of surface and ladder fuels that will make fire hazard worse and require more expensive fuel maintenance treatments. Disturbance of soil through the use of heavy equipment to carry out logging can also introduce weeds that make fire hazards worse. Oregon State University Extension Service states that

Opening up the stand significantly will dry surface fuels due to increased light levels, surface winds and temperatures. This may increase surface fire intensity and rate of spread unless total surface fuel loading is reduced. In addition, thinning that allows significant light to reach the forest floor may result in the regrowth of small trees and shrubs, which over time become new ladder fuels.⁷

Given the purpose of the proposed thinning, the MRRD should aim to retain a higher percentage of canopy cover to avoid inducing the growth of more fuels. The MRRD should also specify whether the proposed thinning will be commercial or non-commercial. Again, given the purpose for thinning, non-commercial hand-crew treatments are appropriate and will ultimately provide the most benefits to slowing fire spread and creating a defensible area around the proposed fire camp. Additionally, please consider whether thinning must be tied to the proposed fire camp in light of the considerations regarding the use of multiple CEs for one project and the inappropriate use of TVA 31 in the Willamette National Forest.

4. Log decking and equipment staging site

The Project proposes to improve 6 acres for a permanent log decking and equipment staging site that is necessary to separate heavy equipment from emergency response personnel. The Project Notification does not provide further details concerning what the improvements to the

⁶ Thomas Spies, Michael Pollock, Gordon Reeves, and Tim Beechie 2013. Effects of Riparian Thinning on Wood Recruitment: A Scientific Synthesis - Science Review Team Wood Recruitment Subgroup. Jan 28, 2013, p 36.

⁷ Fitzgerald S and Bennett M. 2013. A Land Manager's Guide for Creating Fire-Resistant Forests. EM 9087. OSU Extension.

log decking and staging site will entail. The use of the USFS 45d CE implies that improvements will be limited to road management activities such as rehabilitating a NFS road or parking area, but the CE's list of example activities is nonexclusive. Please provide more information regarding what activities the MRRD proposes to undertake for this portion of the Project.

5. Extraordinary Circumstances.

Notwithstanding the inappropriate combination of multiple CEs for a single NEPA project, or inappropriate use of unlawfully adopted TVA 31 and NPS B1, the MRRD is required to consider relevant resources for which an extraordinary circumstance may exist that would require a proposed action to be documented in an environmental assessment or environmental impact statement. 7 C.F.R. § 1b.3(f). Resources to screen for in an extraordinary circumstances analysis include, among others, "Federally listed threatened or endangered species or designated critical habitat or species proposed for Federal listing or proposed critical habitat." 7 C.F.R. 1b.3(f)(1)(i). The eastern thinning units overlap with designated critical habitat for the northern spotted owl. The MRRD must evaluate the potential impact that the proposed thinning will have on the critical habitat and the species, and whether use of a CE to approve the Project is ultimately unwarranted. Please provide information concerning the extraordinary circumstances analysis that will take place.

Conclusion

Oregon Wild appreciates the MRRD's commitment to public engagement and transparency in its project planning process, even if not strictly required under the new regulatory scheme. Informed public engagement helps make projects better and fosters trust with the agency. Overall, Oregon Wild urges the MRRD to reconsider how this project is being planned. Oregon Wild does not oppose creation of a dedicated fire camp that will assist the agency in emergency situations. However, the agency must follow proper procedure and be mindful of NEPA's intent in reaching a final decision establishing such a camp. Please do not hesitate to reach out concerning any of the information or comments included above. Oregon Wild welcomes and appreciates continued dialogue concerning management of America's public lands.

Sincerely,



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