

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Sep 16, 2025

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF WASHINGTON

ALLIANCE FOR THE WILD
ROCKIES,

Plaintiff,

v.

U.S. FOREST SERVICE, JOSHUA
WHITE, Forest Supervisor, Colville
National Forest, CARIN VADALA,
Newport-Sullivan Lake District Ranger,
U.S. Forest Service,

Defendants.

No. 2:24-CV-157-RLP

ORDER ON MOTION FOR
SUMMARY JUDGMENT AND
MOTION TO STRIKE

BEFORE THE COURT are the parties’ cross motions for summary judgment and Defendants’ motion to strike extra record materials. ECF Nos. 24, 32, 33. A hearing was held in this matter on May 13, 2025. Claire Loeb Davis appeared on behalf of Plaintiff Alliance for the Wild Rockies (Alliance). Hayley Carpenter appeared on behalf of Defendants United States Forest Service (the Service), Forest Supervisor Joshua White, and Newport-Sullivan Lake District Ranger, Carin Vadala.

ORDER ON MOTION FOR SUMMARY JUDGMENT AND
MOTION TO STRIKE -- 1

1 Alliance for the Wild Rockies is an environmental organization that
2 challenges the Service's decision to proceed with a timber treatment project known
3 as the Sx^wuytn-Kanisku Connections Trail Project (the Project).¹ Alliance argues
4 the Service violated the National Environmental Policy Act of 1969 (NEPA) by
5 failing to conduct an environmental impact statement (EIS) before approving the
6 Project. It also argues the Project violates the National Forest Management Act
7 (NFMA) because it does not adhere to the terms of the 2019 Colville National
8 Forest Land Management Plan. The Service disputes these allegations. Both parties
9 have filed motions for summary judgment in support of their positions.

10 For the reasons set forth below, each parties' motion for summary judgment
11 is granted in part and denied in part. While the Court largely agrees with the
12 arguments set forth by the Service, Alliance prevails on one issue. Specifically, the
13 record shows a violation of NEPA because the maps identifying areas for
14 commercial timber harvesting are too vague to ensure a hard look at the impact of
15 harvesting and public comment. This flaw is sufficient to require judgment in favor
16 of Alliance.

17 //

18
19 ¹ Sx^wuytn roughly translates to "connection" or "trail" in the Kalispel Salish
20 language. AR 00854.

LEGAL STANDARD

The Administrative Procedure Act (APA) governs review of the Service’s compliance with NFMA and NEPA. *Lands Council v. McNair*, 537 F.3d 981, 993 (9th Cir. 2008), overruled on other grounds by *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 129 S.Ct. 365 (2008). Under the APA, courts must be deferential to the Service as a government agency, particularly when it comes to “scientific matters.” *United States v. Alpine Land and Reservoir Co.*, 887 F.2d 207, 213 (9th Cir. 1989). A court cannot substitute its judgment for that of the Service. *See North Cascades Conservation Council v. U.S. Forest Service*, 136 F.4th 816, 824 (9th Cir. 2025). Rather, the Service’s decision may be set aside only if it is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

NEPA “is a procedural statute that ‘requires federal agencies to take a ‘hard look’ at the environmental consequences of their actions.” *North Cascades*, 136 F.4th at 821 (quoting *Env’t. Def. Ctr. v. Bureau of Ocean & Energy Mgmt.*, 36 F.4th 850, 872 (9th Cir. 2022)). The statute has twin aims. “First, it places upon [a federal] agency the obligation to consider every significant aspect of the environmental impact of a proposed action. Second, it ensures that the agency will inform the public that it has indeed considered environmental concerns in its decisionmaking process.” *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062,

1 1066 (9th Cir. 2002) (alteration in original) (internal quotation marks and citation
2 omitted).

3 “NEPA is a procedural cross-check, not a substantive roadblock.” *Seven*
4 *County Infrastructure Coal v. Eagle County, Co.*, 605 U.S. ___, 145 S.Ct. 1497,
5 1507 (2025). The statute “does not require [an] agency weigh environmental
6 consequences in any particular way. Rather, an agency may weigh environmental
7 consequences as the agency reasonably sees fit under its governing statute and any
8 relevant substantive environmental laws.” *Id.*

9 NEPA requires agencies to prepare an EIS for “major Federal actions
10 significantly affecting the quality of the human environment.” 42 U.S.C. §
11 4332(C). “If an agency is unsure whether its action will have significant
12 environmental impacts, it may prepare an Environmental Assessment (‘EA’) first.”
13 *North Cascades*, 136 F.4th at 821 (citing 42 C.F.R. § 1508.1(j) (2024)). “If the EA
14 determines that the proposed action will significantly affect the environment, then
15 the agency must prepare an EIS. If the EA reveals no significant effect, the agency
16 may issue a Finding of No Significant Impact—or FONSI in NEPA parlance.”
17 *Native Ecosystems Council v. U.S. Forest Service ex rel. Davey*, 866 F.Supp.2d
18 1209, 1224 (D. Idaho 2012) (hereinafter “*Davey*”).

19 “NFMA charges the Forest Service with the management of national forest
20 land.” *Alliance for the Wild Rockies v. U.S. Forest Service*, 907 F.3d 1105, 1109

(9th Cir. 2018). There are two levels of forest management under the NFMA: “(1) the forest level, and (2) the individual project level.” *Id.* Forest-level management involves broad, long-term plans and objectives that are developed through a forest management plan. A forest-level management plan operates like a “zoning ordinance[], defining broadly the uses allowed in various forest regions, setting goals and limits on uses (from logging to road construction), but do not directly compel specific actions, such as cutting of trees in a particular area or construction of a specific road.” *Citizens for Better Forestry v. U.S. Dept. of Agriculture*, 341 F.3d 961, 966 (9th Cir. 2003). An individual project consists of a site-specific plan. *Id.* It serves to implement a forest plan and must be consistent with the forest plan. 16 U.S.C. § 1604(i).

BACKGROUND

The Service initiated the Sx^wutn-Kanisku Connections Trail Project in 2018. AR 00854. One stated goal of the Project is to move the Colville National Forest toward historical conditions for tree size, density, and species. AR 00857-58. The Project area consists of approximately 91,400 acres and around 44% of the Project area (roughly 40,300 acres) is owned by the National Forest System. AR 12283. The Project authorizes approximately 24,400 acres of commercial timber harvest and 45,400 acres of non-commercial restoration activities (including removal of saplings, shrubs, and other fuels and prescribed burning). AR 00862-64. The

1 timeline for the Project is approximately 20 years. AR 01216.

2 The Service released a draft Environmental Assessment (EA) for the Project
3 in the fall of 2020 and a final EA and Draft Decision Notice and Finding of No
4 Significant Impact (DN/FONSI) later that year. AR 01266. The Service issued a
5 final DN/FONSI authorizing the Project in May 2021. AR 01261-71. The Service
6 has since contracted purchasers for three timber sales under the Project. AR 04302-
7 04.

8 In 2023, this Court vacated a proposed action issued under the 2019 forest
9 plan regarding harvesting of large trees, known as the Sanpoil Project. *Kettle*
10 *Range Conservation Group v. U.S. Forest Service*, No. 2:21-CV-161-SAB (E.D.
11 Wash, June 21, 2023) (ECF No. 74). The decision reinstated harvesting to the
12 standards set in the 1995 Forest Plan Amendment, known as Eastside Screens. AR
13 04296. The Eastside Screens rule prohibited the harvesting of certain trees over 21
14 inches in diameter. *Id.* In response to the Sanpoil decision, the Service completed a
15 Supplemental Information Report² (SIR) to determine any impact on the Final EA
16 and DN/FONSI. AR 04296-4309. The Service concluded that reversion to the

17
18 ²A SIR is a procedure that merely documents the agency's "hard look" at
19 new information. *Friends of the Clearwater v. Dombeck*, 222 F.3d 552, 561 (9th
20 Cir. 2000).

1 Eastside Screens rule would not impact the project and thus a supplemental NEPA
2 review was not required. AR 04301.

3 Alliance filed suit on May 13, 2024, claiming violations of the NEPA and
4 NFMA. ECF No. 1. Alliance requests the Court vacate the Project and related
5 timber sales and vacate the decision, within the project, to eliminate roughly
6 400,000 acres of lynx habitat. ECF No. 48.

7 MOTION TO STRIKE

8 The Service has filed a motion to strike appendices to Alliance's Motion for
9 Summary Judgment, consisting of eight maps that were created by merging
10 administrative record documents with open-source Geographic Information System
11 (GIS) maps and with administrative record images. ECF No. 33. The maps were
12 generated for purposes of the current litigation and were not before the Service
13 during its agency decision-making process. The Service argues that the eight maps
14 should be stricken because Alliance never sought permission to expand the
15 administrative record as required by the Court's scheduling order and because the
16 maps do not meet the criteria for expanding the administrative record. The Court
17 agrees with the Service on both arguments.

18 Under the terms of the original scheduling order, Alliance had until
19 December 2, 2024 to file a motion to supplement the administrative record. *See*
20 ECF No. 11 at 7; ECF No. 13, ¶6(b). This deadline was subsequently extended to

1 December 13, 2024 at Alliance’s request. ECF No. 18 at 2. Alliance never filed a
2 motion to supplement the record as provided by the December 13 deadline. It
3 therefore forfeited the right to do so. This circumstance alone justifies granting the
4 Service’s motion to strike.

5 With respect to the merits, there are four narrowly-construed circumstances
6 where the Court may admit extra-record evidence in an agency review action:

7 [D]istrict courts are permitted to admit extra-record evidence: (1) if
8 admission is necessary to determine whether the agency has
9 considered all relevant factors and has explained its decision, (2) if the
10 agency has relied on documents not in the record, (3) when
supplementing the record is necessary to explain technical terms or
complex subject matter, or (4) when plaintiffs make a showing of
agency bad faith.

11 *Lands Council v. Powell*, 395 F.3d 1019, 1030 (9th Cir. 2005) (internal quotation
12 marks omitted). “Normally, if an Agency’s administrative record is incomplete, we
13 would expect litigants to seek to supplement the record in the agency before
14 seeking to expand the record before the district court.” *Id.* at 1029 n.10.

15 Alliance does not argue for application of any of the four exceptions.
16 Instead, Alliance claims the Court can take judicial notice of the maps. The Court
17 disagrees. In the current context, extra-record evidence admitted through judicial
18 notice must still meet one of the established exceptions to the rule governing
19 agency review. *See Friends of the Clearwater v. Higgins*, 523 F.Supp.3d 1213,
20 1222 n.4 (D. Idaho 2021); *see also Bear Valley Mut. Water Co. v. Jewell*, 790 F.3d

1 977, 986 n.2. (9th Cir. 2015) (denying judicial notice because “judicial review of
2 an agency action is [generally] limited to the administrative record on which the
3 agency based the challenged decision”) (alteration in original); *Greater Hells
4 Canyon Council v. Wilkes*, 2023 WL 6443562 at *3 (D. Or. Apr. 20, 2023) (extra-
5 record evidence admitted through judicial notice still must meet one of the *Lands
6 Council* exceptions).

7 Because Alliance has not shown that the eight extra-record maps meet any
8 of the four *Lands Council* exceptions, Alliance’s effort to expand the record fails
9 on the merits. Even though the records utilized by Alliance in creating the maps
10 may be public records, it would be inappropriate for the Court to use the contents
11 of public documents to second guess an agency decision. *See San-Luis & Delta
12 Mendota Water Auth. v. Locke*, 776 F.3d 971, 993 (9th Cir. 2014).

13 NEPA AND NFMA ANALYSIS

14 Alliance alleges the Service’s decision to go forward with the Project
15 without an EIS violates NEPA, because: the Project remapped lynx habitat; the
16 Project maps, designating treatment types, are impermissibly vague; and the
17 Service failed to take a hard look at Project impacts regarding road
18 construction/reconstruction, wildlife, and cumulative projects. Alliance claims the
19 Project violated the NFMA because it is inconsistent with the 2019 Forest Plan
20 with respect to road density. Finally, Alliance argues the Project violates NEPA

1 and NFMA because a SIR fails to comply with the district court's decision in
2 *Kettle Range Conservation Group v. U.S. Forest Service*, No. 2:21-CV-161-SAB
3 (E.D. Wash, June 21, 2023) (ECF No. 74). According to Alliance, the significance
4 of the Project requires the Service to conduct a full EIS under NEPA.

5 The Service has filed a cross motion for summary judgment, arguing their
6 actions complied with the NEPA and NFMA.

7 The Court addresses each of Alliance's contentions in turn.

8 *1. Whether the Project violated NEPA by remapping Lynx habitat*
9 *without an EIS*

10 Throughout the 1990s, the Canada lynx were considered a threatened and/or
11 sensitive species for the Colville National Forest. AR 06319. In 1993, biologists
12 with the Colville National Forest and Washington Department of Fish and Wildlife
13 compiled a map of primary lynx range on the forest, subdividing the area into
14 individual Lynx Analysis Units (LAUs). *Id.* "An LAU is an area of at least the
15 sized used by an individual lynx, from about 25 to 50 square miles, and must
16 contain at least 10 square miles of primary lynx habitat to support reproduction and
17 survival." *Davey*, 866 F.Supp.2d at 1214 (D. Idaho 2012).

18 In 2000, the United States Fish and Wildlife Service added the Canada lynx
19 to the list of threatened species under the Endangered Species Act. 65 Fed. Reg.
20 16052-1, 2000 WL 299328 (Mar. 24, 2000) (codified at 50 C.F.R. pt. 17).

1 Thereafter, a federal interagency lynx biology team developed the Canada Lynx
2 Conservation and Assessment and Strategy (LCAS) “as an interim and guiding
3 conservation strategy for lynx on federal lands.” *Davey*, 866 F.Supp.2d at 1214.

4 “The LCAS required the Forest Service and the [Fish and Wildlife Service]
5 to delineate LAUs upon which direct, indirect, and cumulative effects from site-
6 specific projects could be analyzed. The LCAS “did not actually develop any maps
7 of lynx habitat.” *Yellowstone to Uintas Connection v. Marten*, 2024 WL 3400524
8 at *2 (D. Mont. July 12, 2024). “Instead, the LCAS instructed that specific national
9 forests ... should develop or refine maps of known lynx occurrence and potential
10 lynx habitat.” *Id.* The LCAS states it is not necessary to map LAUs non-core (i.e.
11 secondary or peripheral) habitat areas. AR 06321.

12 Colville Forest’s 2019 Forest Plan incorporated LCAS’s conservation
13 standards for core lynx areas within the Kettle-Wedge Lynx Core area. AR 16555.
14 But there was no “other direction provided by the Forest Plan specific to mapping
15 suitable habitat for lynx on the forest.” AR 06322. The Forest Plan did not identify
16 or discuss lynx habitat in non-core areas, such as the Selkirk Mountain area. The
17 Selkirk Mountains is considered a secondary area for lynx. AR 06321.

18 In 2020, the Forest Service issued updated lynx habitat maps for the Colville
19 National Forest. AR 06322. The maps adjusted LAUs within the Kettle Mountain
20 Core area. AR 06322. The 2020 maps did not define any individual LAUs in the

1 Selkirk Mountain area. AR 06322. Rather, the Service eliminated 22 LAUs that
2 had been previously defined in the area and instead identified “three areas of
3 mapped lynx range” within the Selkirk Mountains. AR 06325.

4 The Project at issue here does not include any acreage within the Kettle-
5 Wedge Core area. AR 01006. Rather, the Project is located in the non-core area of
6 the Selkirk Mountains. AR 06321. The Project used the mapped lynx range from
7 the 2020 map update to measure the Project’s impact on lynx. AR 06322.

8 It is not disputed that the Service did not prepare an EIS for its lynx mapping
9 decisions—no EIS was issued in conjunction with the 2020 lynx habitat maps and
10 no EIS was issued in conjunction with the Project’s adoption of the 2020 lynx
11 habitat maps. The question is whether NEPA required an EIS.

12 The issue of whether the Service was required to conduct an EIS with
13 respect to the lynx maps turns on whether the lynx mapping constituted a major
14 federal action as contemplated by NEPA. *See* 42 U.S.C. § 4332(2)(C). The law
15 provides no precise definition of what constitutes a “major” federal action under
16 NEPA. Rather, an agency’s factual decision that a proposed program is not a major
17 action requiring an EIS is entitled to deference. *See Oregon Nat. Desert Ass’n v.*
18 *Singleton*, 47 F. Supp. 2d 1182, 1191 (D. Or. 1998). Courts must ensure the agency
19 “has taken a ‘hard look’ at the environmental consequences of its action and that
20 its decision is ‘founded on a reasoned evaluation’ of relevant factors.” *Friends of*

1 *the Payette v. Horseshoe Bend Hydroelectric Co.*, 988 F.2d 989, 993 (9th Cir.
2 1993). If the record shows the agency’s decision was “truly informed,” it is entitled
3 to deference. *Id.*

4 The parties appear to agree that an EIS would have been required if the lynx
5 mapping decision impacted habitat protections for the lynx. Case law from this
6 circuit recognizes that remapping lynx habitat area can constitute major federal
7 action in such circumstances. For example, in *Alliance for the Wild Rockies v. U.S.*
8 *Forest Service*, an EIS was required because “the Forest Service adopted and relied
9 on a revised lynx habitat map that removed areas within the project boundary
10 from” lynx protections afforded by the 2007 Northern Rockies Lynx Management
11 Division (NRLMD) amendments to the forest plan. 2023 WL 5427921 at *7 (D.
12 Mont. Aug. 23, 2023). In *Davey*, the remapping “opened nearly 400,000 acres of
13 land to ... projects that would be prohibited under the earlier map and the
14 restrictions applicable to LAUs.”³ 866 F.Supp.2d at 1227. In *Yellowstone to Uintas*
15 *Connection*, remapping changed lynx protections that had been adopted through
16

17 ³ *Davey* referred to ten regulatory factors defining what constitutes a
18 significant federal action under NEPA. 866 F.Supp. at 1228-231. The regulations
19 discussed in *Davey* were not in effect at the time of the current EA. *See* former 40
20 C.F.R. § 1508.27.

1 the NRLMD amendments. 2024 WL 3400524 at *5. And in *Oregon Natural*
2 *Resources Council Fund v. Hells Canyon Preservation Council*, the court held that
3 either an EA or EIS was required prior to remapping because without this process,
4 the forest service was precluded from being able to “conclude [timber] sales would
5 not occur within primary lynx habitat and, therefore, would not impact the lynx
6 adversely.” 252 F.Supp.2d 1088, 1105 (D. Or. 2003).

7 The Service argues that the remapping here did not require an EIS because
8 there was no impact on lynx protections. Unlike forest plans at issue in prior cases,
9 the 2019 Forest Plan at issue here does not confer any specific protections for lynx
10 in secondary, non-core habitat areas. AR 16555 (Forest Plan incorporating 2013
11 LCAS), 06321 (“The 2013 LCAS (page 96) states that it is not necessary to map
12 LAUs in secondary areas.”). The Project area at issue is not within a core lynx
13 habitat area. AR 06321. Thus, the maps adopted by the Project have no impact on
14 protections to lynx within the Project area.

15 Alliance appears to recognize that no specific lynx protections apply in the
16 Project area; nevertheless, Alliance argues that remapping undermines protections
17 provided by general, forest wide provisions of the Forest Plan regarding wildlife
18 habitats. According to Alliance, the lynx remapping undermines one of the Forest
19 Plan’s guidelines and two of its desired conditions. ECF No. 24 at 19-20.

20 Assessing Alliance’s objections requires understanding what the Forest Plan

1 means by a “guideline,” versus a “desired condition.” *See* AR 16511-513, 16667-
2 69. A guideline is essentially a binding condition. *See* AR 16513, 16668. Any
3 meaningful deviation from a guideline requires a “plan amendment.” AR 16513.
4 But a desired condition is more flexible. “Desired conditions are aspirations, not
5 final decisions approving projects and activities, and may be achievable only over
6 a long period of time.” AR 16511. A desired condition need not be met for every
7 project or activity conducted during the life of the forest plan. AR 16667. When it
8 comes to desired conditions, a project or activity must be assessed according to the
9 desired conditions as a whole and the project or activity must meet one or more of
10 four conditions addressing whether the project or activity promotes progress
11 towards a desired condition. AR 16511, 16667-68.

12 Alliance fails to show how the Project undermines any specific guideline or
13 desired condition.

14 The only guideline pointed to by Alliance is FW-GDL-WL-04, which
15 addresses federally listed species, and provides that “[h]abitat for federally listed
16 wildlife species within designated recovery areas that occur on National Forest
17 System lands should be retained in public ownership and managed to support
18 recovery.” AR 16562. Because there is no designated critical habitat for lynx on
19
20

1 the Colville National Forest, let alone in the Project area, the mapping decision has
2 no impact on lynx habitat under FW-GL-WL-04.⁴

3 Alliance points two desired conditions: (1) FW-DC-WL-02, which addresses
4 habitat conditions for threatened and endangered species, and specifies a goal that
5 “[h]abitat conditions (amount, distribution, and connectivity of habitat) [be]
6 consistent with the historical range of variability ... and contribute to the recovery
7 of federally listed threatened and endangered species.” AR 16557. (2) FW-DC-
8 WL-04, which addresses habitat components for Canada lynx and provides that
9 “[f]orest successional stages within lynx analysis units provide a mosaic of lynx
10 habitat (including foraging, travel and denning components) with [a] landscape
11 pattern that is consistent with the historical range of variability.” AR 16557.

12 Alliance fails to explain how these desired conditions confer protections that
13 are undermined by the Project. Consistent with the aforementioned desired
14 conditions, the EA states that the one of the Project objectives is to “[t]rend the
15 forest to the historic range of variability, reduce hazardous fuels and improve
16

17 ⁴ The Service proffers that the reference to FW-GDL-WL-04 in the
18 Biological Assessment was likely a typo, as the same document mentions the
19 similarly numbered desired condition—FW-DC-WL-04 three times. ECF No. 48 at
20 2.

1 resilience to disturbance” by addressing “[h]igh-density forest conditions” that
2 “reduce the resilience of these forest to disturbance and contribute to
3 uncharacteristic fire activity.” AR 00857. Alliance appears to disagree that the
4 Project will contribute to this goal. But the Service’s technical opinion on this issue
5 is entitled to APA deference. *See Alpine Land and Reservoir Co.*, 887 F.2d at 213.
6 Furthermore, the two desired conditions identified by Alliance are not hard-and-
7 fast rules. Even if the Project were in tension with some of the Forest Plan’s
8 desired conditions, the Service’s conclusion that the Project furthers the overall
9 Forest Plan would be entitled to deference.

10 Alliance complains that the maps adopted by the Project eliminated non-core
11 LAUs. This complaint is at least somewhat misleading. The Forest Plan did not
12 adopt any LAUs in non-core areas of the forest. *See* AR 16555. Thus, nothing was
13 eliminated.

14 Alliance points out that the 2020 maps referenced by the Project contemplate
15 changes to core Lynx habitat. This may be so. But the Project does not propose any
16 action with respect to this aspect of the 2020 maps. Until incorporated into some
17 sort of action, such as a new project, the 2020 map revisions to core lynx habitat
18 are not ripe for judicial challenge. *See Northcoast Env’t Ctr. v. Glickman*, 136 F.3d
19 660, 669-70 (9th Cir. 1998).

20 Alliance may well be concerned that the Forest Plan fails to confer sufficient

1 protections in secondary, non-core lynx habitat areas. But this concern is one that
2 goes to the Forest Plan, not the current project. Alliance has not challenged the
3 Forest Plan. Thus, any inadequacies of that Plan are not before the Court.

4 *2. Whether the Project violates NEPA because it is too vague.*

5 The Project authorizes timber harvest on 24,420 acres of National Forest
6 system lands within a total project area of 40,300 acres. AR 01209. There are three
7 authorized categories of commercial timber harvesting: commercial thinning,
8 which would keep an overhead canopy closure generally greater than 40% and
9 maximum is estimated to cover 8,850 acres (AR 00989, 01209); shelterwood with
10 reserves, which would reduce overhead tree canopy closure to lower than 40%
11 immediately post-harvest and is estimated to cover 6,720 acres (AR 00989, 01210,
12 01238); and commercial thinning with group selection, which would result in few
13 to no trees per acre and is estimated to cover 8,850 acres (AR 01210). The project
14 also authorizes a variety of non-commercial restoration treatments. AR 01211-12.
15 The expected timber harvest of the project is 244 million board feet over a project
16 timeline of 20 years. AR 00989.

17 Project maps specify the locations for commercial and non-commercial
18 treatments. *See* AR 00340-43. However, they do not further identify the specific
19 treatments locations within each of these two restoration categories. For example,
20 the maps do not disclose where commercial thinning will take place as opposed to

1 shelterwood with reserves.

2 Rather than provide specific locations for treatment types, the Project
3 employs a harvest plan known as condition-based management. AR 01213-14.
4 Condition-based management is defined as a flexible strategy “that allows
5 predetermined treatments to be aligned, prior to implementation, with current
6 conditions on the ground.” AR 01214. It “involves developing treatments based on
7 pre-identified management requirements but deferring specific decisions about
8 which treatments will be applied in particular locations until the Forest Service
9 conducts pre-implementation field reviews.” *North Cascades*, 136 F.4th at 829.
10 The Project identifies pre-defined “decision points” to determine locations of
11 particular treatments at the time of implementation. AR 01214.

12 The Project identifies six decision points for commercial thinning (AR
13 01216), five decision points for shelterwood with reserves (AR 01217), and three
14 decision points for commercial thinning with group selection (AR 1217). For a
15 particular treatment type to take place, “some or all” of the decision points must be
16 met. AR 01216-17. In addition, the stated primary goal of all commercial
17 harvesting is to trend tree stands towards the HRV. AR 01217. There are also
18 decision points governing non-commercial treatments. AR 01217-18.

19 Alliance argues that the Project’s reliance on condition-based management
20 violates NEPA because it prevents the Service and from taking a hard look at the

1 environmental impacts and stifles the public’s ability to provide meaningful
2 comment. *See Tri-Valley CAREs v. U.S. Dept. of Energy*, 671 F.3d 1113, 1128 (9th
3 Cir. 2012) (EA must provide sufficient information to ensure an agency’s hard
4 look and the public’s ability to comment). The Ninth Circuit has expressed
5 concerns about “excessive reliance on condition-based management.” *North*
6 *Cascades*, 136 F.4th at 829. Nevertheless, the court has approved condition-based
7 management when the area subject to condition-based management is “fairly
8 small” and the Service provided “extensive mapping” which consisted of “unit-by-
9 unit maps of the maximum effects of each treatment” type. *Id.*

10 The condition-based management analysis here goes beyond what has been
11 approved by the Ninth Circuit. While the current Project is somewhat comparable
12 in size to that approved by the Ninth Circuit, there is a stark difference when it
13 comes to mapping. Here, there is no unit-by-unit mapping of the maximum effects
14 of each treatment type. Instead, the maps developed by the Service only identify
15 locations for the two different restoration types—commercial and noncommercial.
16 *See* AR 00340-43. The Ninth Circuit characterized the propriety of condition-based
17 management in *North Cascades* as a “close case.” *North Cascades*, 136 F.4th at
18 829. Because this case goes further than *North Cascades* and involves a broader
19 approach to condition-based management, the Court must agree with Alliance that
20 the EA’s reliance on condition-based management renders it too vague to satisfy

1 the requirements of NEPA.

2 *3. Whether the Project's roads plan violate NFMA and NEPA*

3 The Trails Project proposes six miles of new roads, 51 miles of new
4 temporary roads, reconstruction of up to 292 miles of roads, decommission of 51
5 miles of roads, conversion of three miles of existing roads to non-motorized trails,
6 and closure of two miles of existing roads to non-administrative use. AR 00637,
7 00866-67. Alliance claims the Project's road plans violate the NFMA and NEPA.
8 Each statute is addressed in turn.

9 NFMA

10 Alliance argues that the Project's road plan violates NFMA because it fails
11 to conform to the 2019 Forest Plan with respect to road density in focused
12 restoration areas. *See Alliance for the Wild Rockies*, 907 F.3d at 1109 (under
13 NFMA "[s]ite specific projects and activities must be consistent with an approved
14 forest plan."). Desired condition MA-DC-FR-05 specifies that there should be no
15 more than one mile of forest system road per square mile within each sub
16 watershed. AR 16605. But Alliance argues the Project does not calculate road
17 density in focused restoration areas.

18 The Service points out that the Aquatics Report accounts for road density
19 within focused restoration areas. *See* AR 01136-37, 01142-43, 01157, 01159-60,
20 01168, 01170, 01195. Although the road densities calculated in the Aquatics

1 Report are higher than the Forest Plan's desired condition, desired conditions are
2 not hard-and-fast rules. AR 16511. Furthermore, the Aquatics Report finds that the
3 Project will reduce road densities in two focused restoration watersheds, CeeCee
4 Ah and Exposure Creek. *See* AR 01136, 01143, 01159-60, 01170. And the Project
5 will further other desired conditions of the Forest Plan (specifically FW-DC-AS-
6 01) by improving road and trail access and safety. *See* AR 00642, 16569.

7 Alliance does not respond to the Service's arguments that the EA accounted
8 for road density in focused restoration areas and that, despite the tension with the
9 Forest Plan's desired conditions in focused restoration areas, the Project's road
10 plan does not violate the terms of the 2019 Forest Plan. Alliance's NFMA
11 challenge to the road plan therefore fails.

12 NEPA

13 Alliance also argues the Service violated NEPA because it failed to take a
14 hard look at the environmental impact of the Project's road construction work.
15 Specifically, Alliance complains the EA does not account for the impact of road
16 restoration work or the potential adverse impact of new temporary roads.

17 Alliance's criticisms are not borne out by the record. As part of the EA, the
18 Service prepared several reports that addressed the impact of road construction
19 activities. Each determined that short-term disruptions caused by construction
20 activity would have long term benefits, including addressing unmanaged drainage

1 issues and damaged culverts. *See* AR 00637 (Transportation Report), 00757
2 (Biological Assessment), 01197 (Aquatics Report). The long-term benefits of road
3 construction were determined to move the Project area towards its desired future
4 condition. AR 01178 (“Under the Proposed Action, some short-term impacts to
5 aquatics and watershed function would occur. In the long-term implementation of
6 the proposed action would improve watershed and riparian conditions. This
7 proposed action moves the area towards the desired future condition.”). The EA
8 also noted that project activities would address “noxious weeds on roadsides” that
9 can be “spread” through “[e]quipment operation.” AR 00905. Among other
10 benefits, this would minimize impact on “bear forage plants.” AR 00915. The EA
11 also noted that wildlife impact would be minimized by adjusting the timing of
12 Project activities. *See* AR 00914, 00916. Further, the short-term impact of new
13 roads would be minimized by keeping new roads closed to unauthorized vehicles
14 and effectively closing the new roads “following their use.” AR 00918.

15 The Court recognizes that the EA and supporting documents do not spend
16 much time differentiating between the environmental impact of temporary roads
17 versus the impacts of other road activities. But this is a specificity choice that
18 properly falls to the Service. *See Seven County*, 145 S.Ct. at 1512 (agency must be
19 given deference to determine level of detail). Significantly, the EA does not ignore
20 the impact of temporary roads. The EA includes an estimated quantity of

1 temporary roads. AR 00867. And there are design elements for temporary roads.
2 AR 00871-72. According to the EA and supporting documents, the long-term
3 impact of temporary roads will be reduced by ensuring they are un-drivable after
4 use. AR 00741, 00916. Furthermore, the Service will monitor road closures “for
5 five years” to ensure they are effective. AR 01004.

6 Alliance claims the EA fails to assess the need for future road access,
7 beyond the current project. However, NEPA does not require an agency “to
8 address the environmental effects of projects separate in time or place” from the
9 current project. *Seven County*, 145 S.Ct. at 1508. The Service did not violate
10 NEPA by failing to assess the environmental impact on road construction.

11 *4. Whether the EA failed to take a hard look at the impact on wildlife*

12 Alliance also argues the Service violated NEPA because it failed to take a
13 hard look at the environmental impact of the Project on wildlife, specifically the
14 impacts to lynx, the grizzly bear, the goshawk, and wildlife diversity.

15 Again, the record does not support Alliance’s criticism. The EA includes
16 sections addressing the Project’s impact on habitats for the Canada Lynx (AR
17 00912-14), the Grizzly Bear (AR 00914-18), and the Northern Goshawk (AR
18 00905-910). The Project’s Biological Assessment provides additional details
19 regarding the Canada Lynx and Grizzly Bear. *See* AR 00739-742, 00760-774. And
20 the Wildlife Specialist Report provides a more extensive discussion of the

1 Northern Goshawk. *See* AR 01058, 01060-67, 1079 (Northern Goshawk Nesting
2 Habitat).

3 Alliance criticizes the EA for not developing enough information about
4 existing wildlife conditions before making a determination of non-significance.
5 According to Alliance, the Service failed to assess the number of goshawk and
6 other wildlife in the Project area. For example, Alliance complains “[t]he Service
7 does not indicate how many ‘individual birds’ the Project will impact or describe
8 the nature or degree of those impacts.” ECF No. 24 at 32. Without an accurate
9 count, Alliance argues that the Service cannot reliably assess the significance of
10 the Project. But the Service’s determination of how much base information must be
11 obtained before engaging in predictive modeling is a technical matter that this
12 Court is ill-equipped to assess. Under NEPA, the question of whether an agency
13 has gone into enough detail “requires the exercise of agency discretion—which
14 should not be excessively second-guessed by a court.” *Seven County*, 145 S.Ct. at
15 1512. The central tenet of NEPA is “deference” to an agency’s expertise. *Id.* at
16 1511. In this case, this means deferring to the Service’s factual determination it had
17 sufficient information to make an assessment. This is not a case where the Service
18 failed to engage in any inquiry at all before making its determination of non-
19 significance. Considerable attention was made to the impact on wildlife. The Court
20 is not in a position to “micromanage” the Service’s determination of the right level

1 of investigation. *See id.* at 1513. Rather, NEPA deference on this issue is
2 warranted.

3 Finally, Alliance also faults the Service for failing to consider the
4 cumulative impact of foreseeable future projects on wildlife diversity and the
5 goshawk. But the Supreme Court’s recent decision in *Seven County* holds that
6 courts should defer to an agency’s decision regarding “whether to analyze
7 environmental effects from other projects separate in time or place from the project
8 at hand.” *Id.* Furthermore, the Court held that NEPA only requires an analysis of
9 “the project at hand—not other future or geographically separate projects.” *Id.* at
10 1515.

11 The Court also notes that the administrative record fails to contain details
12 regarding the other projects identified by Alliance. These include the Boulder Park
13 Ecological Restoration Project and the Sanpoil Project. Without details regarding
14 other projects, the Court cannot assess whether the Service improperly drew “the
15 line” with respect to whether those projects were separate from the current Project.
16 *Id.* at 1513. The Court does note that Chapter Three of the EA discusses Project
17 impacts and recognizes the impact of ongoing or potential future projects. AR
18 00876-0927, 01115-18. Furthermore, when it comes to the Northern Goshawk, the
19 EA specifies that all timber sales on Service lands in the forest will incorporate the
20 similar practices and elements for goshawk preservation. AR 00909-910, 01066.

1 Thus, it is apparent that the Service at least considered other projects in issuing the
2 EA.

3 Alliance’s overarching concern appears to be that the EA fails to reflect
4 sufficient concern for adverse impacts on wildlife. But the EA is governed by
5 NEPA and NEPA “does not mandate particular results.” *Robertson v. Methow*
6 *Valley Citizens Council*, 490 U.S. 332, 350, 109 S.Ct. 1835 (1989). Should
7 Alliance believe that the proposed project violates substantive environmental
8 standards, then relief must be sought under a different statute. *Id.* at 51. “NEPA
9 merely prohibits uniformed—rather than unwise—agency action.” *Id.*

10 *5. Whether the Supplemental Information Report violates NEPA and*
11 *NFMA*

12 In 2023, after the Service issued its Decision Notice and Finding of No
13 Significant Impact, the United States District Court for the Eastern District of
14 Washington issued an order in *Kettle Range Conservation Group v. U.S. Forest*
15 *Service*, vacating a forest plan guideline governing large tree management. No.
16 2:21-CV-161-SAB (E.D. Wash, June 21, 2023) (ECF No. 74). The order reinstated
17 the 1995 Eastside Screens Forest Plan Amendment (“Eastside Screens”). *Id.* The
18 Eastside Screens guidelines generally restrict harvesting trees that have a diameter
19 greater than 21 inches at breast height and prohibit commercial harvesting in any
20 Late and Old Structure stand that fails to meet or exceed the HRV. AR 04282,

1 04296, 13172, 13167-68.⁵ After receipt of the court’s order, the Service issued a
2 SIR, concluding that application of the Eastside Screens restrictions would have no
3 impact “beyond the scope and range of effects considered in the original”
4 environmental assessment. AR 04301.

5 In issuing the SIR, the Service utilized 10 acres as the minimum stand size
6 when delineating Late and Old Structure forests. AR 04282. And the Service used
7 a forest-wide approach to determine whether a Late and Old Structure stand meets
8 the HRV. AR 16533-34 (showing HRV estimates for the entire forest), AR 01223-
9 25 (using the same estimates as the historic baseline for conditions in each
10 watershed in the Project area). The SIR determined none of the treatment areas that
11 were subject to timber met this standard and that for remaining timber sales, the
12 Service would augment treatment acres as needed to comply with Eastside
13 Screens. AR 04299.

14 Alliance claims the SIR is invalid because its purported compliance with
15 Eastside Screens rests on a flawed methodology. Alliance argues that it was
16 improper to restrict its analysis of Late and Old Structure forests to stands 10 acres
17 and larger, as Eastside Screens sets no such restriction. And Alliance argues that it
18

19 ⁵ The Eastside Screens restrictions recognize some exceptions, including
20 timber sales “to protect health and safety.” AR 13167.

1 was improper to assess HRV on a forest-wide basis since Eastside Screens requires
2 this assessment to be determined for “large landscapes across which forest types,
3 environmental settings, and disturbance regimes (fire and insects/disease) are
4 relatively uniform.” AR 13168.

5 Alliance’s criticisms of the SIR fail to afford the Service adequate deference.
6 Eastside Screens does not define the stand size to be used to determine whether a
7 Late and Old Structure stand fails to meet or exceeds the HRV. The Service asserts
8 that it has long used 10 acres as an appropriate stand size. ECF No. 32 at 51.
9 Alliance fails to point to anything that would contradict this claim. Outside of any
10 such contradiction, the Service’s interpretation, which is part of its interpretation of
11 its own forest plan, “is entitled to substantial deference.” *See Native Ecosystems*
12 *Council v. Weldon*, 697 F.3d 1043, 1056 (9th Cir. 2012).

13 In addition, in issuing the SIR, the Service did not simply look at the
14 Colville National Forest as a whole, but broke out its HRV analysis by vegetation
15 type and then developed HRV assessments within vegetation types. AR 04299-
16 300. The Service’s determination that focusing on vegetation type sufficiently
17 accounts for the requirement of a uniform forest type is entitled to deference.

18 Alliance argues that, regardless of issues of stand size and a forest-wide
19 approach, the SIR’s analysis is invalid because it fails to account for forest
20 composition on land outside the National Forest System. However, nothing in

1 Eastside Screens requires an assessment of non-Forest-owned lands. Again, the
2 Service's determination that Eastside Screens only requires an analysis of forest
3 service land is entitled deference. *See Native Ecosystems Council v. Weldon*, 697
4 F.3d at 1056.

5 Alliance makes two additional criticisms, both of which fail. First, Alliance
6 argues the SIR incorrectly attempts to force tree composition in each watershed to
7 match the HRV for the entire Forest. The applicable language from Eastside
8 Screens states as follows, "Each component watershed should not be expected to
9 reflect the average conditions for the larger landscape, but the sum of conditions
10 across watersheds within the area for which the HRV is developed should reflect
11 ranges of conditions determined in the HRV evaluation." AR 13168. Alliance fails
12 to explain how the SIR's analysis fails to comport with this standard. Second,
13 Alliance argues the SIR ignores Eastside Screens' restrictions on certain logging
14 within Late and Old Structure stands over 100 acres even if they are above the
15 HRV. *See* AR 13176. However, Alliance does not point to anything in the SIR
16 indicating the Service will allow violations of this provision.

17 *6. Remedy*

18 As set forth above, the Court determines that the EA in this case violates
19 NEPA in one limited respect. Specifically, the Project maps place excessive
20 reliance on condition-based management, rendering them too vague to comply

1 with NEPA. Given this fundamental flaw, the Court cannot conclude that the
2 Service would have issued a FONSI despite this error. *See Seven County*, 145 S.Ct.
3 at 1514. Rather, the appropriate remedy is to vacate the FONSI and remand for
4 further agency action.

5 ACCORDINGLY, IT IS ORDERED:

6 1. Plaintiff's Motion for Summary Judgment, **ECF No. 24**, is **GRANTED**
7 **in part** and **DENIED in part**.

8 2. Defendants' Cross Motion for Summary Judgment, **ECF No. 32**, is
9 **GRANTED in part** and **DENIED in part**.

10 3. Defendants' Motion to Strike, **ECF No. 33**, is **GRANTED**.

11 4. The Finding of No Significant Impact is hereby **remanded** to the U.S.
12 Forest Service for further evaluation under NEPA consistent with this decision.

13 The Clerk of this court shall enter this Order, enter judgment in favor of
14 Plaintiff, and close this file.

15 **DATED** September 16, 2025.

16 

17 Rebecca L. Pennell
18 United States District Judge
19
20