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cc: Mariah Wallace
NEPA Planner and Project Lead
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Submitted 7/28/26 via project webpage:
<https://www.fs.usda.gov/r06/willamette/projects/67448>

Re: Formal Comments on the Dead Mountain Project Draft Environmental Assessment (March 2026), Project #67448, Middle Fork Ranger District, Willamette National Forest

Dear Deputy District Ranger Cameron Mitchell,

Forest Service Employees for Environmental Ethics (FSEEE) submits the following comments on the Draft Environmental Assessment (“Draft EA”) for the Dead Mountain project. FSEEE is a national organization of current and former federal land management employees and citizens who advocate for scientifically sound, legally defensible, and transparent management of the National Forest System. These comments are timely and project-specific comments on the Dead Mountain project Draft EA, and are submitted to preserve FSEEE's eligibility to file a pre-decisional objection under 36 C.F.R. Part 218, Subparts A and B.

The Dead Mountain project proposes variable-density thinning across 1,750 acres, 200 acres of small diameter fuels reduction, 154 acres of shaded fuel breaks, 967 acres of prescribed burning, 34 miles of road maintenance and reconstruction, approximately 3 miles of new temporary road construction, and quarry operations across a 7,641-acre project area that overlaps Riparian Reserves, a Late-Successional Reserve, administratively withdrawn wildlife habitat allocations, and two watersheds already listed as impaired under the Clean Water Act. These comments are organized around FSEEE's four core values— good governance, ecological integrity, scientific soundness, and fiscal responsibility—and identify the legal standards and Forest Plan provisions we believe the current record does not yet satisfy. Throughout, we also respond to the District's requests for comment regarding alternatives, information relevant to the analysis, and the project's anticipated environmental effects.

I. Good Governance: Accountability, Transparency, and NEPA Sufficiency

A. The range of alternatives does not satisfy NEPA's hard-look requirement

The Draft EA carries forward only one action alternative alongside the no action alternative; two narrower alternatives (eliminating temporary road construction; limiting shaded fuel breaks to small-diameter manual treatment) were considered but dismissed without detailed analysis (Draft EA at 19). NEPA requires an agency to “rigorously explore and objectively evaluate all reasonable alternatives” where unresolved conflicts over resource use exist. 42 U.S.C. § 4332(2)(E). We ask the District to analyze, in the final EA, an alternative that reduces commercial entry into Riparian Reserves and into the Partial Retention Foreground (11d) scenic allocation — the allocation most visible from Oakridge — relative to the current proposed action, so that the decision-maker and the public can weigh the trade-off against the project's fire and resilience objectives.

B. Spatial and temporal deferrals fail the spatial-certainty mandate

Recent decisions have emphasized that agencies generally must identify the spatial and temporal details that drive environmental effects before completing NEPA review. See *Ctr. for Biological Diversity v. U.S. Forest Serv.*, No. 9:23-cv-00110-DWM (D. Mont. Dec. 11, 2025) (vacating approval of the South Plateau Project because the Forest Service deferred implementation details—including temporary road locations and associated habitat effects—that were fundamental to compliance with NEPA, NFMA, and the ESA); *Se. Alaska Conservation Council v. USFS*, 976 F.3d 1010 (9th Cir. 2020) (holding that broad, unmapped “toolbox” approaches do not substitute for site-specific analysis). Likewise, *Oregon Wild v. U.S. Forest Service* (D. Or. Jan. 13, 2026) reflects the same principle within this Circuit by emphasizing that the Forest Service must analyze the actual scope and location of authorized commercial thinning rather than relying on generalized assumptions.

Two elements of the Dead Mountain proposed action raise this concern. First, the Draft EA states that “large burn blocks are designed to be broken up into units as needed” based on future smoke and resource-availability conditions, and that timber activity within a burn block “may be completed before fire is introduced but is not a requirement” (Draft EA at 16). Second, the Draft EA states that a fuels specialist would determine, 5 to 10 years after this decision, whether “another entry of fuels activities like prescribed fire would be conducted” (Draft EA at 16) — a future re-entry decision with its own environmental effects that is not itself analyzed here. We ask the District to either map and analyze the burn-block subdivision and sequencing now, or explain why the deferred elements do not represent a proximate effect requiring further site-specific analysis (or supplementation) when they are finalized.

C. Proximate, in-footprint effects of this project remain squarely within the required analysis

To be clear about the limits of recent Supreme Court precedent: *Seven County Infrastructure Coalition v. Eagle County*, 605 U.S. 168 (2025), narrowed agencies' obligation to analyze effects of separate upstream or downstream projects outside their regulatory authority, and instructed courts to give agencies “substantial deference” in drawing the line between effects with a “reasonably close causal relationship” to the project and effects that are more attenuated. *Seven County* did not disturb NEPA's core mandate, and it did not relieve agencies of analyzing the direct, in-footprint effects of the project they are actually authorizing. The effects at issue in this

letter — sediment from roadwork and harvest within the project's own boundary, habitat effects from thinning and burning the agency itself is prescribing — are the paradigm case of effects within the agency's own regulatory authority and causal responsibility, and *Seven County* does not excuse their analysis. If the agency determines that these direct and proximate effects may be significant, individually or cumulatively, NEPA requires preparation of an environmental impact statement rather than an EA accompanied by a Finding of No Significant Impact (FONSI).

D. Decision document type should be clarified

The Draft EA states its purpose is to determine whether to prepare an EIS or a finding of no significant impact (FONSI) (Draft EA at 8), consistent with the 36 C.F.R. Part 218 objection process cited in Appendix B. Table 20, however, states that trade-offs “will be documented in a Decision Memo” (Draft EA at 68) — a document normally associated with a categorical exclusion, not an EA. We ask the District to correct this before the final decision so the applicable administrative review process is unambiguous.

II. Ecological Integrity and Scientific Soundness

A. The premise that these stands depart from natural range of variability needs better supporting evidence

The Draft EA justifies Riparian Reserve and matrix-land thinning substantially on the premise that current stand structure departs from the historical/natural range of variability (NRV), citing Acker et al. (2023) LiDAR-based structural comparisons. The relationship between historical fire exclusion, plantation structure, and departures from the historical range of variability in western Cascade Douglas fir forests remains an area of active scientific debate. Researchers continue to differ regarding the magnitude of those departures, the most appropriate historical reference conditions, and the treatments necessary to restore desired forest structure. We ask that, because the proposed treatment's necessity rests on the departure premise, the final EA support that premise with site-specific evidence for the affected stands — not a Forest-wide or regional characterization — and that it acknowledge the range of views reflected in the scientific literature. Where an agency relies on one interpretation of an ongoing scientific debate, it should explain why that interpretation represents the best available science supporting the proposed action.

B. Northern spotted owl territories are already below viability thresholds

The Draft EA's own data show that two spotted owl territories in the project area (MSNO 2803 and MSNO 2818) are already below the 50 percent core-area and 40 percent home-range suitable-habitat thresholds associated with functional territories (Table 15, Draft EA at 44), and the project's effects determination for the northern spotted owl is “may affect, likely to adversely affect,” tiered to a 2023 programmatic Biological Assessment and Biological Opinion. We do not dispute that consultation occurred. Our concern is narrower: the pre-treatment and during-implementation survey protocol described to prevent incidental take (Draft EA at 44) is narrative, not a binding, numbered project design feature comparable to those in Appendix A for other resources. Under *National Parks & Conservation Ass'n v. Babbitt*, 241 F.3d 722, 730 (9th Cir. 2001), “a perfunctory description, or mere listing of mitigation measures, without supporting analytical data is insufficient” to rely on that mitigation. We ask that the survey and treatment modification protocol be codified as an enforceable design feature, with an explicit contingency for what occurs if surveys cannot be completed within a treatment season.

C. The Late-Successional Reserve “neutral or beneficial” finding is conclusory We support the Draft EA's finding that no commercial harvest is proposed within the 132-acre Late Successional Reserve (allocation 16B), and its tiering to the Mid-Willamette LSR Assessment for the 11 acres each of PCL and burn-block treatment proposed there. Northwest Forest Plan standards and guidelines permit silvicultural entry into Late-Successional Reserves only where it is neutral or clearly beneficial to development of late-successional characteristics. The Draft EA states this outcome without disclosing the burn-severity thresholds or monitoring that would substantiate it. Awareness of the standard is not a substitute for site-specific analysis showing the standard is met; we ask the final EA to supply that analysis.

D. Ensure Riparian Reserve treatment and Aquatic Conservation Strategy consistency The Draft EA proposes 356 acres of commercial thinning within Riparian Reserves, out of 2,363 Riparian Reserve acres in the project area, supported by a science-based rationale for accelerating large tree and future wood-recruitment characteristics. We ask the final EA to confirm, for these units specifically, consistency with all nine Aquatic Conservation Strategy objectives — not only the large-wood recruitment objective most directly served by the proposed prescription — given that both affected watersheds are already listed as impaired under the Clean Water Act (see Section IV below).

E. Wildlife Habitat–Pileated Woodpecker allocation: unit-specific retention prescriptions must be disclosed

Approximately 193 of the 315 acres in the administratively withdrawn Wildlife Habitat–Pileated Woodpecker allocation (61 percent) are proposed for burn-block treatment. We did not locate unit specific snag and coarse-woody-debris retention targets or burn-severity objectives for this allocation in the Draft EA. Because prescribed fire that consumes snags and down wood can directly remove this allocation's nesting and foraging structure, we ask for those prescriptions and for pre-treatment survey commitments for active nest sites.

F. Botanical surveys needed beyond federally listed and Survey and Manage species

The Draft EA addresses red tree voles (a Survey and Manage species) and states that no federally threatened or endangered botanical species are present (Draft EA at 99). This does not address Region 6 Sensitive vascular plant, fungi, lichen, or bryophyte species, which are a separate Forest Service Manual 2670 obligation independent of ESA listing status. We ask the final EA to disclose whether Region 6 Sensitive botanical surveys were conducted and to disclose their results, particularly for units with older forest structure, rock outcrops, or wetland features.

III. Clean Water: Impaired Watersheds and the Babbitt Standard for Mitigation

The Draft EA discloses that both the Salmon Creek and North Fork Middle Fork Willamette watersheds are listed as impaired under Clean Water Act § 303(d) (Draft EA at 58), and that combined road density across both watersheds (330 miles in Salmon Creek, 575 miles in the North Fork Middle Fork) is approximately 2.5 miles per square mile — between the National Marine Fisheries Service's 2 mile/sq mi “properly functioning” and 3 mile/sq mi “not properly functioning” thresholds (Draft EA at 58). The Draft EA also discloses 69 acres of pre-existing detrimental soil conditions concentrated in 11 harvest and fuelbreak units, and approximately 800 acres of highly erodible, shallow, southerly-aspect soils within the proposed commercial thinning units (Draft EA at 50).

The Draft EA relies on best management practices (BMPs) and project design features to conclude that sediment effects will remain below background levels and be short-term (1 to 5 years). Under *Babbitt*, 241 F.3d at 730, a “mere listing of mitigation measures, without supporting analytical data,” cannot support a no-significance conclusion where impacts to already-impaired waters are at issue. We ask the District to disclose:

- The specific §303(d) impairment parameter(s) (temperature, sediment, bacteria, or other) for each watershed, so BMPs and monitoring can be matched to the actual impairment rather than sediment control in the abstract;
- Effectiveness monitoring data — from this district or comparable geology, soils, and prescriptions elsewhere on the Willamette National Forest — supporting the conclusion that the proposed BMPs will hold sediment delivery below background levels in a watershed already out of compliance with water quality standards. If no such effectiveness monitoring exists in the administrative record, we ask the District to disclose that fact, because the absence of monitoring information is itself relevant to whether reliance on BMPs supports a Finding of No Significant Impact.
- A quantified turbidity or fine-sediment monitoring and adaptive-management trigger, not narrative design features alone, tied to the actual impairment parameter.

IV. Fiscal Responsibility

The proposed action includes 34 miles of road maintenance and reconstruction, approximately 3 miles of new temporary road construction, and quarry operations at three sites, layered onto a Forest Service road system nationally known to carry a large deferred-maintenance backlog. We ask the final EA to disclose the estimated cost of the proposed road work, the portion (if any) to be funded through timber purchaser road credits versus appropriated maintenance funds, and how this squares with the district and Forest's existing maintenance backlog and the roads actually needed for long-term access, consistent with a sustainable road system as the project's own purpose and need describes. We also ask for disclosure of the project's expected net stumpage value or below-cost status, so the decision-maker and the public can weigh the fiscal trade-offs alongside the resource trade-offs discussed above.

V. Northwest Forest Plan and Forest Plan Consistency

Table 1 below reproduces the land allocation acreages from the original scoping notice and flags where FSEEE believes the proposed treatment intensity within a given allocation warrants closer scrutiny against that allocation's Northwest Forest Plan standards and guidelines.

NWFP / Forest Plan Allocation	Acres in Project Area	Acres Proposed for Treatment	Consistency Question Raised in This Letter
Wildlife Habitat–Pileated Woodpecker (9B), Administratively Withdrawn	315	194 (1 PCL + 193 burn)	Snag/down-wood retention targets not disclosed for 61% of allocation proposed for burning (Sec. III.E)
Wildlife Habitat–Marten (9C), Administratively Withdrawn	174	0	No treatment proposed — consistent; the District needs to confirm this remains unchanged in the final EA

Late-Successional Reserve – 100 acre (16B)	132	22 (11 PCL + 11 burn)	“Neutral or beneficial” finding stated without burn-severity/monitoring support (Sec. III.C)
Riparian Reserves (multiple allocations)	2,363	1,006 (580 harvest + 70 SDT + 50 PCL + 306 burn, per scoping Table 1)	ACS nine-objective consistency not confirmed unit-by-unit (Sec. III.D)
Scenic–Partial Retention Foreground (11D), Matrix	785	174 (41 harvest + 9 PCL + 124 burn)	Scenery Management System consistency determination remains qualitative (Sec. II.A)
General Forest–Intensive Timber Mgmt. (14A), Matrix	3,772	2,568 (1,695 harvest + 190 SDT + 122 PCL + 561 burn)	Allocation intended for intensive management — no inconsistency raised

We ask the final EA to include an updated version of this table reflecting final unit design, and to state expressly, allocation by allocation, how the standards and guidelines governing each are met.

VI. Legal Compliance Summary

The following table summarizes the issues FSEEE has raised and the statute or authority pertaining to our concerns:

Statute / Authority	Issue Raised	Section
NEPA, 42 U.S.C. § 4332(2)(E)	Range of alternatives	II.A
NEPA hard-look doctrine; <i>Marsh v. Oregon Nat. Res. Council</i> , 490 U.S. 360 (1989)	Deferred spatial/temporal detail; duty to supplement if new information arises before decision	II.B
NFMA, 16 U.S.C. § 1604; Northwest Forest Plan S&Gs	LSR, Riparian Reserve, and wildlife-allocation consistency	III.C–E, VI
ESA § 7, 16 U.S.C. § 1536	Northern spotted owl territories below threshold; enforceability of survey mitigation	III.B
Clean Water Act § 303(d), 33 U.S.C. § 1313(d)	Treatment in already-impaired watersheds	IV
<i>National Parks & Conservation Ass'n v. Babbitt</i> , 241 F.3d 722 (9th Cir. 2001)	Mitigation/BMP reliance without supporting analytical data	III.B, IV
<i>Se. Alaska Conservation Council v. USFS</i> , 976 F.3d 1010 (9th Cir. 2020)	“Toolbox” / unmapped management deferral	II.B
MUSYA, 16 U.S.C. § 528 et seq.	Balancing timber, water, wildlife, and recreation values in a sustainable road and harvest system	V

VII. Design Elements Worth Preserving

Several elements of the proposed action reflect the kind of place-based, evidence-supported design that should characterize fuels and forest-health projects generally. We appreciate these good efforts and note them so they are not lost as the District resolves the concerns above:

- The LiDAR-based, stand-specific targeting of thinning rather than a uniform prescription;

- Retention of skips and gaps rather than uniform regeneration harvest;
- Tiering to an existing Late-Successional Reserve Assessment rather than treating the LSR as ordinary matrix; and
- Seasonal restrictions are built into the design features to reduce sediment timing risk.

FSEEE encourages the District to retain these design features in the final project regardless of how it addresses the concerns identified above, while recognizing that they do not independently resolve the issues discussed in these comments.

VIII. Requested Remedies

FSEEE respectfully requests the following remedies:

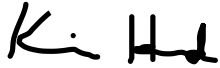
- Analyze a genuine additional action alternative that reduces commercial entry into Riparian Reserves and the Partial Retention Foreground scenic allocation;
- Map and analyze the burn-block subdivision sequencing now, or explain why deferring it does not require further site-specific analysis or supplementation;
- Correct the Decision Memo/FONSI inconsistency and confirm the applicable 36 C.F.R. Part 218 objection process;
- Support the natural-range-of-variability departure premise with site-specific evidence and acknowledge the range of scientific views on historical stand structure in this forest type;
- Codify the northern spotted owl survey and treatment-modification protocol as a binding, numbered project design feature with a contingency for incomplete surveys;
- Disclose burn-severity thresholds and monitoring supporting the Late-Successional Reserve “neutral or beneficial” finding;
- Confirm Aquatic Conservation Strategy consistency for all nine objectives, unit by unit, for Riparian Reserve treatments;
- Disclose unit-specific snag/down-wood retention targets for the Wildlife Habitat–Pileated Woodpecker allocation;
- Disclose Region 6 Sensitive botanical species survey status and results;
- Identify the specific §303(d) impairment parameter(s) for each watershed and provide BMP effectiveness monitoring data (or disclose its absence) supporting reliance on BMPs in already impaired waters;
- Disclose estimated road work costs, funding source, and net timber-sale economics; and
- Provide a quantified Scenery Management System consistency determination for units visible from Oakridge and primary travel corridors.

Active forest management must be supported by the best available science, comply with applicable environmental laws, and be implemented through a transparent public process. We believe the concerns identified above can be addressed through revisions to the Final EA and associated decision documents, resulting in a more scientifically defensible and legally durable project.

Thank you for considering these comments. Please confirm receipt for the administrative record and contact us with any questions.

Respectfully submitted,

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IX. Citation List

Statutes and Regulations

- National Environmental Policy Act, 42 U.S.C. § 4321 et seq., particularly § 4332(2)(E).
- Clean Water Act § 303(d), 33 U.S.C. § 1313(d).
- Endangered Species Act § 7, 16 U.S.C. § 1536.
- National Forest Management Act, 16 U.S.C. § 1604.
- Multiple-Use Sustained-Yield Act, 16 U.S.C. § 528 et seq.
- 36 C.F.R. Part 218, Subparts A–B.
- 36 C.F.R. Part 220

Case Law

- *Seven County Infrastructure Coalition v. Eagle County*, 605 U.S. 168 (2025)
- *Marsh v. Oregon Natural Resources Council*, 490 U.S. 360 (1989)
- *National Parks & Conservation Ass'n v. Babbitt*, 241 F.3d 722 (9th Cir. 2001)
- *Southeast Alaska Conservation Council v. USFS*, 976 F.3d 1010 (9th Cir. 2020)
- *Center for Biological Diversity v. U.S. Forest Service* (D. Mont. 2025)
- *Oregon Wild v. U.S. Forest Service* (D. Or. 2026)

Science

- Acker, S.A. et al. (2023), LiDAR-based structural comparison to historical range of variability