Data Submitted (UTC 11): 6/22/2018 7:00:00 AM
First name: Pam
Last name: Hardy
Organization:
Title:
Comments: Danger Tree Project - Comments

Dear Christy,

Attached are my comments on the upcoming Danger Tree project.

My most important concern is that you didn't explain how you plan to identify danger trees.

Many Thanks for your consideration.

~ Pam

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June 15, 2018

Important Person

Address Address

Beautiful City 98773

Re: Emigrant Creek Danger Tree

Dear ___,

Thank you for opening the comment period on the Danger Tree Removal project. Clearly, it[rsquo]s important to remove trees where there is an imminent danger of them falling and striking the public.

I have two comments/questions I would like you to address in the Final Environmental Analysis.

1 [ndash] How do you determine what a danger tree is? What is the best available science on this question, and how reliable is it?

2 [ndash] When reviewing your EA, I was unable to locate a place in which you address all the cumulative impacts together.

Each concern is laid out in greater detail below.

What is a Danger Tree? What is the Best Available Science? How reliable is that science? Did you include a sufficient Range of Alternatives? After reviewing the EA, I was unable to determine how you determine what qualifies as a danger tree. During the scoping period I sent comments asking you to review and respond to 2017 study by Ganio et. al, (att[rsquo]d here) funded by the USFS which found that all the models for determining tree mortality are fundamentally flawed. The best model reviewed only correctly predicted tree mortality 24% of the time. That[rsquo]s worse than a coin toss.

Tree mortality is not the only predictor of hazard. In the EA there was an excellent photo of a situation where a stand of living ponderosa pine was about to be undercut by erosion and fall into a road. That clearly qualifies as a dangerous situation. But such obvious situations are rare. The EA states clearly that the most likely reason for trees being dangerous is their death due to pine butterfly or attack by another insect. This information is critically important because the environmental and social consequences of removing substantially different percentages of trees is likely have a significant impact.

Given the recent removal of most of the living old growth trees along Hwy 26 in the Ochoco National Forest, I have serious concerns that the criteria used to determine what qualifies as a [ldquo]danger tree[rdquo] is including far too many perfectly healthy trees. This concern is compounded when I look at the maps you provide in the EA. In one ranger district you are proposing to treat over 700 miles of road. There are not 700 miles of frequently traveled roads in the Emigrant Creek Ranger District unless you use an extraordinarily generous definition of [ldquo]frequently traveled.[rdquo]

When you compound these two issues, it appears that you could be removing a large number of perfectly healthy old-growth trees along rarely used roads under the guise that they are hazards. What is the chance that a tree with only a 24% chance of dying is going to actually strike a person driving down a road that[rsquo]s only used a handful of times each year? At some point the risk is so miniscule that it no longer qualifies as a risk that the FS has a responsibility to mitigate. There is some danger that normal people assume when walking or driving in the woods. Please explain how you[rsquo]ve determined the appropriate level of risk tolerance.

Specific Request #1:

Please explain how you are planning to determine which trees qualify as dangerous. This includes

[bull] what model you are using to determine the likelihood that a tree will die or fall and the known accuracy of that model, specifically how it compares the models tested in the Ganio paper (att[rsquo]d).

[bull] what model you are using to determine the likelihood that that tree will actually strike a person including the analysis about how likely it is that a car will be driving down any particular road at the time that tree might fall.

According the NEPA CFRs [ldquo]Agencies shall insure . . . scientific integrity, of the discussions and analyses in environmental impact statements. They shall identify any methodologies used and shall make explicit reference by footnote to the scientific and other sources relied upon for conclusions in the statement.[rdquo] 42 C.F.R. 1502.24. The Ninth Circuit elaborated on this in it[rsquo]s case Idaho Sporting Congress, 137 F.3d 1146 (9th Cir.1998). There the court explained allowing the Forest Service to rely on expert opinion without hard data either vitiates a plaintiff's ability to challenge an agency action or results in the courts second guessing an agency's scientific conclusions. As both of these results are unacceptable, we conclude that NEPA requires that the public receive the underlying environmental data from which a Forest Service expert derived her opinion. In so finding,

we note that NEPA's implementing regulations require agencies to identify any methodologies used and [ ] make explicit reference by footnote to the scientific and other sources relied upon for conclusions [hellip]

While the Forest Service will receive deference in its explanation of why it chose a particular method to determine the likelihood of a tree being dangerous. That deference does not apply where the justification is not shared at all.

Specific Request #2:

Please include an alternative where you examine a different risk tolerance [ndash] one that chooses to cut fewer trees. Please use this other alternative to help the public understand the real trade-offs you are making. If you use a less aggressive model to predict tree mortality, what is the difference in ecological outcome? economic outcome? fire fighting safety outcome? and, of course, risk to the public?

According to 40 C.F.R. [sect] 1502.14 the alternatives section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment and Environmental Consequences, it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section, agencies shall: (a) Rigorously explore and objectively evaluate all reasonable alternatives

Cumulative Effects

Your cumulative effects analyses do not actually address all the cumulative effects together. After each of the affected wildlife species or other issues you include a section labeled [ldquo]cumulative effects.[rdquo] But most of these do not actually include a cumulative effects analysis. Further, the nature of a cumulative effects analysis is that all the issues that have a small, but distinct effect should be considered together, not separately. The very purpose of considering and analyzing cumulative effects under NEPA is to avoid "the tyranny of small decisions." Kern v. BLM, 284 F.3d 1062, 1078 (9th Cir.2002) (emphasis added). The requirement is designed to make sure "individually minor but collectively significant" actions are adequately analyzed. 40 C.F.R. [sect] 1508.7. "Even a slight increase in adverse conditions that form the existing environmental milieu may sometimes threaten harm that is significant . . ." Grand Canyon Trust v. FAA, 290 F. 3d 339, 343 (D.C. Cir. 2002) (citation omitted). If the total impact from such small, incremental actions are not aggregated, it would be easy to "underestimate the cumulative impacts of the timber sales. . ." Kern, 284 F. 3d at 1078. This is why the consideration of cumulative effects is so important. While appropriate thinning our dry forests clearly has some beneficial effects, removal of old growth, and old growth snags, is different. The Malheur National Forest is already far below historical standards. This project appears poised to remove old growth along over 700 miles of forest roads. That[rsquo]s a significant impact that has not been disclosed or discussed, and it certainly hasn[rsquo]t been discussed cumulatively with other projects or events that have impacted old growth.

Specific Request #3

Please quantify the number of acres you will be treating, clarify the nature of those treatments, and provide an aggregate analysis of the cumulative impact of that treatment on wildlife and old growth in the context of all the other events [ndash] including fires and past logging practices [ndash] that have had an impact on old growth in the Emigrant Creek Ranger District.

Conclusion

Thank you for considering these comments. Please keep me informed of any further actions taken as a result of this environmental analysis.

Best Regards,

Pam Hardy