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Comments: March 31, 2022

Mr. Jonathan Morgan, District Ranger
Monongahela National Forest, Cheat-Potomac Ranger District
2499 North Fork Highway
Petersburg, WV 26847

Re: Comments from Friends of Blackwater, Inc. and Center for Biological Diversity and Restore the North Woods on the draft EA for Upper Cheat Project River Project #58364

Dear Mr. Morgan:

With this letter, Friends of Blackwater (FOB) and Center for Biological Diversity (Center) provide comments on the draft EA on Upper Cheat River project and request a full EIS due to the significant impacts this project will have on Northern long-eared bats.

Friends of Blackwater is a non-profit conservation organization working to protect biodiversity in the Mid-Atlantic Appalachian Highlands. FOB has 5,624 members and supporters across West Virginia and in the surrounding states, and works to protect public lands used by our members. During the past 20 years FOB has moved 4,650 acres of critical endangered species habitat into public ownership at Blackwater Falls State Park and in the Cheat Canyon. FOB has funded research and advocacy for the endangered Indiana bat, Virginia big-eared bat, Cheat Snail in the Cheat River Gorge, the Cheat Mountain salamander, and advocated for federal protections for the West Virginia northern flying squirrel, northern long-eared and little brown bats. Friends of Blackwater has a longstanding interest in the conservation of rare, threatened, and endangered species in the Monongahela National Forest (MNF), and has a track record of active engagement in MNF planning processes. FOB has a Memorandum of Understanding to work with the Monongahela National Forest on improving water quality, maintaining hiking and biking trails, and interpreting historic sites in Tucker County. FOB has done similar trail work in Blackwater Falls State Park and collaborated with Tucker County and the Town of Hendricks to place roadside markers at historic sites.

Center for Biological Diversity ("Center") is a nonprofit environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental and administrative law. The Center has over 1.6 million members and online activists dedicated to the protection and restoration of endangered species and wild places. The Center has worked for over twenty-five years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life. Much of the Center's work focuses on protecting endangered and threatened species in the Southeastern United States. Several of these imperiled species occur in West Virginia and within the Monongahela National Forest.

RESTORE: The North Woods is a nonprofit organization dedicated to restoring, preserving, and defending wilderness, public lands, and wildlife. Founded in 1992, RESTORE has more than 1,000 members and supporters across the country. Our organization has been at the forefront of efforts to restore the eastern wolf, Atlantic salmon, Canada lynx, and other endangered species; to protect Maine's Allagash Wilderness Waterway and other federal and state lands across New England; and to build a nationwide campaign for the creation of New National Parks, including in West Virginia.

FOB and the Center submitted scoping comments on this project on July 29, 2021 and participated in the Forest

Service's virtual open house.

I.The Forest Service Must Examine a Range of Reasonable Alternatives Under NEPA.

When federal agencies prepare an EA, they must take a "hard look" at the project's environmental impacts and the information relevant to its decision. In taking the required "hard look," agencies must "[r]igorously explore and objectively evaluate all reasonable alternatives" which are consistent with the stated purpose and need "and give each alternative substantial treatment in the environmental impact statement." This alternatives analysis "is the heart of the environmental impact statement" and the requirement applies to both EAs and EISs.
The EA includes just one alternative: the "action alternative." The Forest Service does not even discuss the benefits and costs of not acting, other than to say that late successional habitat would increase in the forest if the Forest Service does not pursue the action alternative (EA at 37). Clearly, a single alternative is not a reasonable range of alternatives that the statute requires.
In our prior scoping comments, we requested that the Forest Service consider a wider range of alternatives for analysis. Several reasonable alternatives clearly exist. The Forest Service could offer one or more alternatives that result in fewer acres of vegetation management, reduce the amount of clearcutting in favor of uneven aged approaches, prohibit the logging of older, mature trees, and further limit logging where NLEBs have been documented. It could also limit opening size and configuration of cuts within NLEB habitat (<20 acres) to more closely mimic gaps created by natural disturbances. These openings could also help provide warmth for maternity roost trees and support the prey base (i.e., insects). Some of these alternatives or a combination thereof may very well achieve the stated purpose of the proposed project but accomplish it a manner that is far less damaging than the approach being proposed. Reasonable alternatives that meet the project purpose must "be given full and meaningful consideration."

Despite our comments and NEPA's mandate that the Forest Service identify and discuss a "range" of reasonable alternatives, the agency remains obdurate, releasing an EA that offers no choice of options for the public to consider. Part of the purpose of providing a wide range of alternatives is to help the public understand the many ways that a project area could be managed and give the public an opportunity to express their preferences between various alternatives. Consideration of alternatives should provide a clear basis for choices by the decision maker and the public. This process fosters "both informed decision-making and informed public participation." Neither the preliminary EA nor the final EA provide the public with that opportunity. Moreover, the Forest Service fails to adequately explain why any other alternative, has not been considered and discussed in the final EA. But it does not appear that the Forest Service has made any attempt to consider any other alternative that would in the least bit deviate from its preferred course of action.

Further, there is no discussion of whether less impactful alternatives were not considered because they did not meet the stated purpose and need for the project. Even if additional alternatives would not fully achieve the project's purpose and need, NEPA "does not permit the agency to eliminate from discussion or consideration a whole range of alternatives, merely because they would achieve only some of the purposes of a multipurpose project." If a different action alternative "would only partly meet the goals of the project, this may allow the decision maker to conclude that meeting part of the goal with less environmental impact may be worth the tradeoff with a preferred alternative that has greater environmental impact." "The "cursory dismissal of a proposed alternative, unsupported by agency analysis, does not help an agency satisfy its NEPA duty to consider a reasonable range of alternatives."

Further, NEPA prohibits an agency from providing only a one-sided discussion of the impacts of a particular alternative. "Taking a 'hard look'…should involve a discussion of adverse impacts that does not improperly minimize negative side effects." It also means "provid[ing] full and fair discussion of significant environmental impacts…General statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided." In this instance, the Forest Service utterly fails to address the many benefits of a "no action alternative," which include the preservation of habitat for

listed species like the NLEB and Indiana bat. The EA repeatedly states that if the proposed action is not implemented, there will be more late-successional habitat (EA at 5, 36-37, 40) but it says nothing about how more late-successional habitat would benefit species threatened by habitat loss and fragmentation. If an agency considers an alternative in its EA or EIS it must discuss both the beneficial and adverse impacts of that alternative. While NEPA does not mandate a specific cost-benefit analysis, if the agency chooses to quantify benefits, it must quantify costs as well. Regulations dictate that when an agency prepares a cost-benefit analysis, it must "discuss the relationship between that analysis and any analyses of unquantified environmental impacts, values, and amenities." 40 C.F.R. § 1502.23. This analysis must fairly account for both benefits and the associated costs. Sierra Club v. Sigler, 695 F.2d 957, 979 (5th Cir. 1983) (once agency chose to "trumpet" a set of benefits, it also had duty to disclose the related costs). "There can be no hard look at costs and benefits unless all costs are disclosed." Id.

Moreover, the Forest Service's decision to assess the economic benefits of the proposed action (see EA 38-39) while failing to properly assess the benefits of retaining thousands of acres of large carbon-sequestering mature trees in the landscape (as well as the cost to the climate of cutting them down), further violates NEPA. Federal courts have struck down NEPA documents because economic and socio-economic benefits were not properly quantified. See, e.g., id. (setting aside analysis that presented project benefits but not costs); High Country Conservation Advocates v. United States Forest Service, 52 F.Supp. 3d 1174 (D. Col. 2014)(finding that an EIS discussed the economic benefits of lease modifications while inadequately disclosing the effects of GHG emissions). An analysis that overstates the economic benefits of a project violates NEPA by undercutting both of the law's twin goals: "ensur[ing] that agencies take a hard look" at a proposal's environmental impacts, and informing "the public so that they may play a role" in decisionmaking. Hughes River Watershed Conservancy v. Glickman, 81 F.3d 437, 446-48 (4th Cir. 1996) (citing Robertson, 490 U.S. at 349 and setting aside EIS that overstated economic benefits because "it is essential that the EIS not be based on misleading economic assumptions"); see also Natural Res. Def. Council v. U.S. Forest Serv., 421 F.3d 797, 811-13 (9th Cir. 2005) (holding that EIS violated NEPA where it relied on inaccurate economic data and thus "misled" the public).

In addition, the Forest Service's discussion of the no-action alternative and proposed alternative offers a false dilemma of doing nothing at all and watching the Forest experience a 134% increase in late successional habitat or clearcutting 3,463 acres for commercial gain. Clearly, there are alternatives between the two that increases the amount of young forest while protecting vulnerable species that the Forest Service hasn't even bothered to consider.

To the extent the Forest Service will attempt to rely on 36 C.F.R. § 220.7(b)(2) to defend its position that no other alternatives need to be discussed because there are no unresolved conflicts concerning alternative uses of available resources, the agency's position would be entirely misplaced in this instance. FOB and the Center, as well as several other organizations commented extensively on this project and participated in a virtual open house arguing that the agency needs to consider other alternatives. These comments evidence unresolved conflicts concerning alternative uses of available resources throughout the NEPA process, and the Forest Service should have discussed a range of alternatives in its EA.

The Forest Service's failure to include additional alternatives also strongly suggests that the analysis process was tailored to lead to one pre-determined conclusion. By unreasonably narrowing the universe of possible alternatives to a single action, the Forest Service's discussion of the alternatives under NEPA is arbitrary and capricious.

II.The Forest Service Needs to Consider the Role Natural Disturbances and Climate Change Stressors are Having on the Creation of ESH.

The Forest Service needs to examine the role of natural disturbances and climate change stressors and their relationship to active management approaches in the creation of early seral forests. The Forest Service must

also carefully consider this important factor when identifying a reasonable range of project alternatives.

Natural disturbances can be abiotic (e.g., fire, drought, wind, snow, and ice) and biotic (e.g., insects and pathogens). The spatial extent and magnitude of these disturbances can vary, ranging from small gap scale events to catastrophic events such as tornadoes or major storms. Disturbances such as fires, insect outbreaks, and windthrow can disrupt the structure, composition, and function of an ecosystem.

Disturbance regimes have changed profoundly in many forests in recent years, with climate being a prominent driver of disturbance change. Climate change is altering the frequency, intensity, duration, and timing of disturbances. Disturbance change is expected to be among the most profound impacts that climate change will have on forest ecosystems in the future. Warmer and drier conditions facilitate fire, drought and insect disturbances, while warmer and wetter conditions increase disturbances from wind and pathogens.

Many climate models have projected an overall increase in temperature and a drying trend in many subtropical and mid-latitude regions, with wildfires likely increasing in these regions. Temperature increases across the South would contribute to increased fire frequency and intensity, total burned area, and longer fire seasons. Windthrows caused by large hurricanes and other intense storms have significant impacts on forest structure, species composition, successional development, and carbon storage and emissions.

Native insects and pathogens are an important part of a healthy forest but when environmental and biological conditions lead to outbreak levels, they can significantly impact forests. Non-native invasive species have been identified as one of four critical threats and can rapidly increase across the landscape with little resistance beyond control and mitigation measure. Both native and non-native insects and diseases cause above-normal mortality rates on Forest lands and in many instances they can be attributed to changes in forest conditions as well as climate change. These disturbance agents can affect forests at varying scales and intensity from small groups of trees (gaps) to larger sizes and scales.

Despite the increased frequency and intensity of these events throughout the Southeastern United States, the Draft EA provides no information that explains why the Forest Service believes the amount of clearcutting proposed in this project is necessary to achieve desired conditions.

Before rushing to create more ESH through silvicultural treatments, the Forest Service needs to meaningfully consider the role natural disturbances fueled by climate change stressors play in creating early forest habitat. The Forest Service should examine the increased frequency and intensity of these disturbances in recent years and how these disturbances may impact the Forest Service's age and structural class categories for each ecozone going forward. Surface geologic processes (e.g. mass wasting or landslides, flooding, erosion, etc.) are an important part of the natural disturbance regime and can affect the Forest in varying degrees every year. There needs to be a discussion of how canopy gaps contribute to young forests and how the natural disturbance regime (fire, storms, etc.) may be having a greater impact on forests in recent years and in the decades to come due to climate change. Moreover, post-disturbance forests have high loads of coarse woody debris which provides legacy habitat features and complex soil development, while canopy gaps created by regeneration harvests are devoid of such complexity.

Although modifying forest structure and composition can modulate climate sensitivity of disturbance regimes in some instances by lowering the probability of a subsequent disturbance by the same agent, an overzealous approach to creating more young forest conditions may ultimately lead to an imbalance in the age and structural class of the national forests, making them more vulnerable to climate change. Forests in the Southern United States already have the highest percentage of carbon lost to timber harvest of any region (92%) and an increasing rate of natural disturbances driven by climate change could further diminish current net carbon uptake.

It is therefore extremely important that the Forest Service consider the extent to which the increased frequency and intensity of natural disturbances may be uniquely impacting each of the various ecozones in the Forest, how multiple, overlapping natural and manmade disturbance events could impact the recovery periods/return intervals within these ecozones, and how that may alter the decision-making when it comes to management actions (e.g. timber harvests) aimed at creating more young forests. While the (now outdated) Forest Plan calls for more ESH within the Forest, the Forest Service should examine the appropriateness of using timber harvests to create early seral forests given the impacts of climate change on natural processes. Much has been learned since the Forest Plan was produced. The Forest Service should not continue to assume that disturbances will have a relatively small and ephemeral impact on the forests and that active management is always necessary to achieve desired young forest conditions, as it appears to be asserting in the scoping record. The Forest Service should proceed in a manner consistent with the precautionary principle, revisit any assumptions made regarding natural disturbance, and factor in the increase in frequency and intensity of climate change induced and amplified disturbances across the forests. The Forest Service should also monitor natural disturbances to better inform an adaptive management approach to the creation of young forests. Moreover, the Forest Service should provide a full accounting of the Forests' role in sequestering carbon, along with the cumulative impact of management and disturbance trends across the National Forest System.

As it is currently formulated, the Draft EA fails to provide adequate support under NEPA for the "purpose and need" of increasing regeneration harvests. NEPA planning begins with an identification of the purpose and need for a project. NEPA's implementing regulations provide that an environmental document should specify the underlying purpose and need to which the agency is responding in proposing the alternative including the proposed action. The manner in which an agency defines the project's purpose "sets the contours for its exploration of available alternatives." Therefore, an agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative would accomplish the goals of the agency's action, and "the EIS would become a foreordained formality." By falsely assuming that regeneration harvests are necessary to create young forests, and that without these harvests the Forests will continue to deviate from an (unspecified) natural range of variation, the Forest Service has defined the need and purpose of this project so narrowly that only the proposed alternative calling for more regeneration harvests is considered. This must be addressed so that the Forest Service can properly examine less environmentally damaging alternatives that may otherwise address the concerns raised by the Forest Service about the Forests' deviation from the NRV.

III.The Forest Service Must Consider the Quality of Existing Habitats and Species Diversity Before Turning to Regeneration Harvests to Create More Young Forests.

Before the Forest Service turns to timber harvests as a tool for ecological restoration, it must consider where, when, and why logging is appropriate to achieve the desired condition of creating young forests. This is another important factor the Forest Service must carefully consider when identifying a reasonable range of project alternatives.

The Forest Service needs to clearly differentiate between high quality habitats and degraded habitats when identifying timber harvests as the ecological tool of choice for creating young forests. While it may make sense to cut stands with low species and structure diversity such as non-native pine plantations, it makes far less sense from a cost-benefit standpoint to log more diverse areas, especially late successional areas, and those trending towards or classified as old growth. Yet, there appears to be no protections for these age classes in these areas and stands 120 years and older may be cut under this proposal. This could have profound impacts on late successional patches where it appears young forest creation will occur.

The Forest Service needs to also consider the timing of these timber harvests. To re-emphasize our earlier point about natural disturbances, the Forest Plan needs to factor in natural disturbances (amplified by climate change) when determining the appropriate amount of early seral habitat. For example, it would not only be unnecessary but also detrimental to species diversity if a timber harvest is planned for an area where forest gaps have been recently recreated by natural disturbances, such as fire, windthrow, or insects. Moreover, studies have found that

if drought and drought-induced fires become more common, fire-tolerant oak and hickory species may become more abundant than less tolerant, maple, basswood, and birch species, potentially reducing diversity in currently highly diverse mesic forests. To proceed with harvesting these areas anyway without concern for maintaining species diversity and the future impacts of climate change, just to satisfy an ESH target would be misguided, to say the least.

Further, the Forest Service needs to explain why timber harvests are the most appropriate tool. There needs to be a rigorous discussion weighing the advantages and disadvantages of using regeneration harvests instead of other active management approaches (such as thinning and prescribed fire) or relying more on natural disturbance agents to achieve the NRV for young forests.

A key consideration under NEPA is whether the "selection and discussion of alternatives fosters informed decision-making and informed public participation." NEPA requires the Forest Service to "evaluate a reasonable range of alternatives to the proposed action, to allow the decision-makers and the public to evaluate different ways of accomplishing an agency goal." Without a nuanced and robust discussion of the environmental costs and benefits of using timber harvests to create more young forests, the Forest Service will not be able to provide the public with enough information to meaningfully evaluate the alternatives and determine whether this is the appropriate management approach to achieving the desired condition of more young forests. The Forest Service must engage in a rigorous analysis which provides a clear basis for choice among options by the decision maker and the public.

IV.The Forest Service Should Consider the Young Forest Conditions of the Broader Landscape in Relationship to the Forest Service's Plans to Establish More ESH.

The Forest Service should discuss the role of the Monongahela National Forest within the broader landscape and how the conditions of the broader landscape may influence the sustainability of resources and ecosystems within the plan area. It is important to include information about the structural classes of private and state-owned forest land across the broader landscape. If much of this land is subject to regular timber harvesting for sawtimber and pulpwood products, managed for game species, or otherwise altered to accommodate predominately human uses, there would likely be a substantial if not disproportionate amount of land already within the young forest age class. Therefore, when viewed through the lens of the broader landscape, there is arguably much less need to use regeneration harvests to create thousands of more acres of young forests within national forest boundaries, particularly if many of these existing young forests occur either as inholdings or in proximity to national forest boundaries.

It is also important that the Forest Service consider the conditions of private and state-owned lands when it comes to the protection of rare species. Many plants and animals may have opportunity to thrive across the broader landscape, but those that are rare or that require special conditions may be better protected or find refuge on parts of the landscape more common within the National Forest System lands and unique habitats found there. Examples include the Indiana bat and northern long-eared bat (NLEB), which depend on larger more mature trees for roosting. Therefore, there may be an even greater need for additional mid-age, late-age, and old growth forest to compensate for the lack of these habitats across the broader landscape.

The Forest Service must consider what is occurring within the broader landscape when it identifies a reasonable range of project alternatives. This includes, but is not limited to, the timber already harvested and the amount of land cleared in the Lower Clover, Hogback, and Corridor H projects. In fact, it should already be engaged in this kind of analysis as it prepares to update its Plan and propose future projects. The 2012 Planning Rule states that in preparing forest plans and plan revisions, the Forest Service must "consider and evaluate existing and possible future conditions and trends of the plan area, and assess the sustainability of social, economic, and ecological systems within the plan area, in the context of the broader landscape." Plans "must include plan components, including standards or guidelines, to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area…" Planning regulations foresee the Forest Service's beneficial role in sustaining desirable ecological conditions in the broader landscape but also recognize that

activities on state and privately held land may adversely affect ecological conditions on national forests. Because of this, components must consider "contributions of the plan area to ecological conditions within the broader landscape influenced by the plan area" and "conditions in the broader landscape that may influence the sustainability of resources and ecosystems within the plan area." "Landscape" is "a defined area irrespective of ownership or other artificial boundaries, such as spatial mosaic of terrestrial and aquatic ecosystems, landforms, and plant communities, repeated in similar form throughout such a defined area. Thus, the broader landscape includes non-federal lands outside the national forest boundaries.

The Planning Rules also specifically contemplate instances where the National Forest may need to compensate for degraded conditions on the broader landscape or to mitigate the effects of external stressors to "contribute to maintaining a viable population of the species within its range."

The Forest Service must consider the need for early seral forests when viewed through the lens of the broader landscape, and whether the amount of regeneration harvests called for in the project is necessary and appropriate.

V.The Draft EA Does Not Adequately Describe the Baseline Conditions of the Affected Species

The Forest Service is required to "describe the environment of the areas to be affected or created by the alternatives under consideration." The establishment of the baseline conditions of the affected environment is a practical requirement of the NEPA process. "Without establishing… baseline conditions . . . there is simply no way to determine what effect [an action] will have on the environment, and consequently, no way to comply with NEPA."

The document makes the general assertion that older forests do not provide adequate habitat for wildlife, and therefore more early successional habitat needs to be created within the project area. However, the document does not explain how the current conditions are affecting specific species. It provides no estimates for the current population of any species, no data on trends in either in the population of any individual species or the overall diversity of species, and no quantifiable population goals that could be used to evaluate whether or not the project is successful. Therefore, the public has no way of knowing whether the management proposed is actually necessary for promoting diverse, sustainable wildlife populations in the Upper Cheat River project area or if it is simply a pretext to accommodate more commercial logging. The omission of population data or trends is particularly glaring for the threatened, endangered, and Regional Forester Sensitive Species in the area. Critical population status and trend data for golden wing warbler, cerulean warbler, grouse, turkey, and other species the Forest Service purports that the project will support is entirely missing from the document. Further, there already appears to be an abundance of deer as reflected by the browse pressure in the area. The Forest Service cannot confidently say that the management actions would benefit these species and enhance their habitat if it doesn't have baseline data to assess how they are faring in the forest and a plan in place to address specific habitat needs. (See EA at 28). In fact, more ESH could exacerbate deer browse pressure by providing even more habitat for this species. The absence of Specialist Reports and previous surveys of wildlife, including aquatic species (see appendix with map showing 75 miles of wild trout streams in the project area) and plant species - and bat caves -- in the project area, makes this proposal fatally flawed, both procedurally and substantively. Without complete baseline information for these species, the public has no assurances that the Forest Service took a hard look at the project and that the benefits of the proposed project justify its environmental costs.

VI.The EA Does Not Adequately Discuss the Project's Impacts to the Northern Long Eared Bat and Indiana Bat.

The Northern long-eared bat (NLEB) was listed as threatened under the ESA in 2015. Last year, a federal court remanded the U.S. Fish and Wildlife Service's threatened listing for the NLEB back to USFWS to make a new listing decision. See Center for Biological Diversity v. Everson, Case No. 15-477, Memorandum Opinion, (D.D.C. Jan. 28, 2020). The Court found that the USFWS failed to consider the cumulative effects of threats when

determining that the species is "threatened" rather than endangered. Id. Against the backdrop of White Nose Syndrome (WNS), these threats include the loss of forest habitat. Id. On March 22, 2022 the U.S. Fish and Wildlife Service proposed to reclassify the species from threatened to endangered. See Department of the Interior, Fish and Wildlife Service, Docket No. FWS-R3-ES-2021-0140, Endangered and Threatened Wildlife and Plants; Endangered Species Status for Northern Long-eared bat, Proposed Rule (March 22, 2022). A final rule is expected later this year.

As the EA notes, the northern long-eared bat has been documented extensively in the action area and project area where timbering will occur:

"Mist net surveys for federally-listed bats have been completed in the project area from 1997 to 2019. A total of 578 Northern long-eared bats (NLEB) have been documented within the Action Area with 555 occurring within the Project Area. Since the onset of white-nose syndrome (WNS), 95 NLEB have been documented in the Action Area from 2012 - 2019. This included 51 pregnant or lactating females, 38 non-reproductive males, and 6 non-reproductive females. One maternity roost is known to occur within 150' of the cutback border around wildlife opening 142. Additionally, during acoustic surveys in 2020 a total of 107 Northern long-eared bat probable presence calls at 20 survey area locations were recorded. No Virginia big-eared or Indiana bats were detected during mist net surveys. Acoustic surveys conducted during the summer of 2020 within the project area recorded 32 potential Virginia big eared bat calls. A total of 107 Northern long-eared bat probable presence calls at 20 survey area locations were recorded. Likewise, probable presence of Indiana bat was recorded at one location." Pg. 21 of the UCR EA.

Despite its extensive occurrence within the area and the removal of thousands of acres of summer roosting habitat through regeneration harvests, the Forest Service devotes less than a page to the discussion of the impacts to this species and concludes that the project will not cause "prohibited take as described in the Final 4(d) Rule, and the voluntary framework in the USFWS range-wide BO (USFWS 2015b)."

The discussion is grossly inadequate as it fails to discuss the direct, indirect, and cumulative effects of the project to the species in violation of NEPA. The proposed project poses a wide range of impacts to the species that the Forest Service has not adequately considered. NLEBs use live trees, raising the possibility that timbering could bring down trees containing roosting bats. NLEBs are also at risk because of their habitat preferences as they forage in mature upland forest with a fairly closed canopy rather than forest openings that might be used by larger bats. NLEB are tolerant of complex forest structure and some degree of "clutter" in the understory, with a small enough wingspan to be able to maneuver in forest interior areas. Similarly, studies indicate that NLEB regularly roost in trees located in or below the forest canopy, keeping to their forest interior niche. One comparative study of Indiana bats and northern long-eared bats found that the NLEBs were more likely to roost within intact forests to a statistically significant degree, while Indiana bats were more likely to be found roosting on forest edges.

NLEBs, like many other woodland bats, prefer to roost in larger diameter trees, making it important to preserve mature forest. NLEBs are less likely to use large forest gaps and clear cut areas than intact forest, although research is mixed on the impacts of less severe timber treatments. NLEBs avoided roosting in areas that had been subject to a shelterwood harvest in Indiana, indicating that their avoidance of harvested areas is not just limited to clearcuts. An earlier study in Ontario indicated that the disruption to forest structure and truncated age classes that occur with timbering were detrimental to habitat for multiple species of bats, including NLEBs. Female bats are more sensitive to fragmentation due to more stringent roosting requirements and greater resource needs related to reproduction, so they would be particularly vulnerable to the impacts of timbering. NLEBs largely avoid openings larger than 20 acres.
Taken together, this strongly indicates that harvesting, by reducing canopy cover, forest interior area, and large diameter trees, will negatively impact NLEBs. Although white nose syndrome has been the primary driver for loss of NLEBs, forest fragmentation has also been identified as a contributing factor in their decline. In view of these

impacts, it is imperative that the Forest Service examine these impacts and identify alternatives that would minimize harm to NLEB's during all stages of the species life cycle.

The Draft EA's discussion of the impacts to Indiana Bats is similarly flawed. The Indiana bat was listed as endangered under the ESA in 1973. Summer maternity colonies are known to occur in the Monongahela and at several sites across the Forest. Upland habitats appear to be used much more extensively by maternity colonies than previously thought. These roosts are not found in forests with open canopies (10-30%) or in old fields with less than or equal to 10% canopy cover. As the Recovery Plan for the Indiana bat cautions, "Silviculture that involves short rotations and/or removal of dead and dying trees threatens the integrity of roosting habitat for Indiana bats. Retention of large snags and preservation of over-mature trees to provide for a sustained supply of large snags is essential to maintaining summer habitat for tree-roosting bats in general, and Indiana bats specifically."

Both the NLEB and Indiana bat are threatened by white nose syndrome (WNS) and the disease has severely impacted the populations. Surveys performed by the West Virginia Department of Natural Resources in Winter 2017 documented a 50.8% decline in Indiana bats and a 23.9% decline in tricolored bats since 2015. Hellhole, which has the largest concentration of endangered Indiana bats in the state, experienced a decrease of nearly 96%.

The Draft EA acknowledges that "impacts are likely to occur as a result of harvesting tees > 5inch dbh. These impacts are associated with 3,795 acres of timber harvest and associated activities, 920 acres of prescribed burning, and 6 acres of road construction and/or reconstruction." (EA at 23). Yet the Draft EA does not elaborate and explain what these impacts include. How many bats may be taken? How much roosting habitat will be lost? What is the cumulative impact of other similar timber harvests in the Forests? How will these activities cumulatively impact the species when the Forest Service also factors in population declines from WNS?

Instead, it attempts to minimize these impacts by asserting that "riparian plantings are expected to have long-term beneficial effects on the suitability of Indiana bat foraging habitat along the riparian corridors, as the purpose of the plantings is to increase shade and cover to portions of the stream that currently have reduced cover and improve the overall health of aquatic ecosystems." (EA at 23). But will scattered plantings offset the loss of thousands of acres of roosting habitat or make up for large scale clearcuts that create openings so large that the Indiana bat will avoid? Further, what does the Forest Service mean that "based on the scope and scale of these activities" that the impacts of herbicides on Lepidoptera larvae and other insects are minimal within the Action Area? (EA at 23). What is the methodology and basis for the Forest Service's conclusions? There is no support in the Draft EA for these broad conclusions.

The Forest Service must prepare an EIS in this instance because this project is likely to adversely affect a great number of northern long eared bats and Indiana bats in the project area. The Council on Environmental Quality ("CEQ") has promulgated regulations to guide agencies in determining whether a proposed project will have "significant" impacts to the environment. Whether an action will have a "significant" impact on the environment, thus warranting the preparation of an EIS, requires considerations of both "context" and "intensity." "Context" means that the significance of an action must be analyzed in several different contexts (i.e. national, regional, and local significance of the action). "Intensity" refers to the severity of the impact. The CEQ regulations set forth several factors for the action agency to consider when evaluating intensity. These factors include among others, the degree to which the action may adversely affect an endangered or threatened species or its habitat that bas been determined to be critical under the Endangered Species Act of 1973. The presence of even just "one of these factors may be sufficient to require preparation of an EIS in appropriate circumstances." The clearcutting of more than 3,000 acres of documented, federally listed bat habitat demands the preparation of an EIS.

In addition, the Forest Service's discussion is based on a rule and biological opinion that will not apply to a species that is reclassified as endangered. Under the statute, section 4(d) rules only apply to species listed as

threatened. Given that the NLEB may now be reclassified as endangered, it is imperative that the Forest Service no longer rely on the 4(d) rule and the 2015 Biological Opinion in its analysis of the project's impacts under NEPA and the ESA. Instead, it must reassess any assumptions, effects determinations, and mitigating measures based on the 4(d) rule and 2015 BO (such as those establishing certain minimum canopy densities and snag characteristics for the species) and consider these new circumstances in its consultation with the Fish and Wildlife Service.

VII.The Forest Service Does Not Analyze Climate Change Issues Using the Latest Available Science

The document's discussion of climate change has a number of substantial gaps and mistakes; to proceed further without addressing those gaps and mistakes would be improper.

One glaring omission is the lack of any discussion of the effect of the proposed logging on the actual ongoing, current carbon sequestration of the existing trees in the proposed project area - taken alone and taken in combination and in cumulative impact with other similar projects.

Unfortunately, the draft EA is not a scientifically objective document. It is rather a partisan exercise in minimization and misdirection, designed to support a result that is not in the public interest. It should be redrafted to fully and fairly assess the actual environmental impact of the project proposal, and propose alterations that would truly serve the public interest.

The objective truth is that the proposed logging - over thousands of acres -- would have decades-long impacts, including increased sedimentation, wildlife disruption, and degraded recreation.

The EA is scientifically incorrect on the issue of carbon storage. Equivocal statements such as "more stands will reach a slower growth stage in coming years, potentially causing the rate of carbon accumulation to decline" are misleading. Much of the benefit in carbon sequestration comes from mature forests (80+ years), NOT young growing forests.

Having older forests is not an excuse to log them. Logging always causes more carbon debt than new trees growing would absorb, and it would take many decades of growing to offset the carbon lost during logging, much less make up for any missed potential. Ignoring this increased impact on carbon storage, the EA supports a doubling of forest disturbance, a very unwise practice. Especially with the urgency of climate change, public lands are our #1 weapon against climate change.

The EA's suggestion that storage of carbon in wood products can mitigate the loss of mature trees is not supported by scientific evidence. About 86% of all carbon stored in wood products is lost to the atmosphere within 100 years.

The EA makes the misleading suggestion that natural disturbances and other processes resulting in dead trees that will decay over time, emitting carbon to the atmosphere. While this is the natural carbon cycle, the vast majority will be taken up by the soil and surviving trees. This is the value of mature forest: we get an ever-increasing carbon pool that is safe and not in the atmosphere. Notably, the IPCC's latest guidance (2022) recommends setting aside 30-50% of natural areas as carbon reserves; and cautions very strongly against attempting to use wood fiber as a climate "solution," because of major risks to food and land allocation. The science in this area has changed, and the Forest Service needs to adapt, too. Citing the IPCC's 2000 work is outright misleading and poor science.

It is unfortunate that the EA relies upon the argument that the Upper Cheat Proposal itself would make "an extremely small direct contribution to overall emissions." Of course, this is a specious argument that can be made with respect to just about any carbon emission source, when considered by itself. But the Forest Service is charged with managing land for its highest and best use. In 2022, that is to a great extent as a carbon reserve --

not to subsidize logging, paper, and pellet companies. The Forest Service, managing the public's carbon storage, is tasked with serving the people of the U.S.

The EA states that "forest land in the United States has had a net increase since the year 2000, and this trend is expected to continue for at least another decade (Wear et al., 2013; USDA Forest Service, 2016)." However, the largest source of emissions from US forests is logging. It accounts for 85% of all emissions - more than fire, insects, drought, and disease combined. To continue this pattern is unacceptable.

Scientific studies support the need for forests, including national forests, to play a key role in responding to the climate crisis by responding to the need for carbon storage. For example, a 2018 National Academies of Sciences study states that removing carbon dioxide out of the air will be crucial to meeting global climate goals, and a 2018 study by The Nature Conservancy reports that forests and other natural systems in the U.S. could offset as much as 21% of total national greenhouse gas emissions. The United States Mid-Century Strategy for Deep Decarbonization, released in 2016 by the Obama White House, states that federal lands will play an important role in preserving carbon storage and calls for quickly mobilizing federal lands towards this goal. The Biden administration has followed suit with Executive Orders such as "30x30" to implement climate change mitigation strategies on public lands. In the face of unprecedented climate disruption, the Forest Service should be doing all it can to expand old growth forests rather than accommodating more widespread commercial logging.
In sum, the draft EA for Upper Cheat River timbering proposal needs to be redone, to include and address the science cited herein. It needs to revise the results-driven minimization of the carbon consequences of the original proposal, and modify it to eliminate the egregious adverse effects of the proposal. This is what the public is entitled to expect from the managers of one of our most important public carbon storage resources - the million-acre Monongahela National Forest.

VIII.The Draft EA Does Not Adequately Address Flooding Concerns.

Helicopter logging will be performed on very steep slopes.
We note that the document lists helicopter logging and cable logging as a technique to be used. We calculated that 1,905 acres would be logged by helicopter. Of this total 1,345 are on slopes of 40%+, 868 acres at 60% slope and 478 acres are on slopes greater than 60%. While helicopter logging reduces roadbuilding, it can still increase runoff, which can lead to flooding by removing the tree canopy which stabilizes soils on sensitive ridgelines. These are very steep slopes in the project area and have multiple waterways that have experienced major flooding in 2017 and 2019.

Much of the recent logging has been done on private land, but the Forest Service is also logging by helicopter right now on steep slopes in the project area. The recent flooding has required emergency rescue of folks from truck roofs and telephone poles. Roads have been washed away in Leadmine and Horseshoe, which are in the project area. Climate change has increased rainfall in this area and this threat will continue. We do not believe that an adequate analysis has been done of the private logging and the cumulative impacts of the private and Forest Service logging past, present and future to be assured that the Upper Cheat project will not cause flooding. No mention is made of past attempts to repair flood damage in Horseshoe Run such as the work done by the Canaan Valley Institute and the USDA Natural Resources Conservation Service in 2006. The small chart on past private and Forest Service logging in these watersheds does not present the true picture. There must be an assessment of flood risks in the analysis.

IX.The Draft EA Does Not Adequately Address Cable Logging Concerns

We are concerned that cable logging will tear up the forest floor wiping out plants, understory shrubs and exposing the hyphal mat to drying and death. There is no analysis of the impacts of cable logging on forest ecology and forest wildlife. The public needs more analysis and examples of how this process would work in

detail not just its cost.

X.The Draft EA Does Not Adequately Address Impacts to Trails and Tourists:

This area of the Monongahela National Forest has numerous trails, including the famous long distance Allegheny Trail. These trails are widely used by the 1.5 million visitors who come to Tucker County to visit public lands and use recreational trails. The draft EA document focuses on the motorized use of the project area as the outdoor recreational resource available, and completely leaves out the popular hiking and biking trails and negative impacts that logging may have on the visitor experience. More research and analysis should be including in the analysis on this issue.

XI. The Draft EA Does Not Adequately Address Negative impacts to Brook Trout:

Many watersheds in the Upper Cheat have supported trout over time. However, in recent years the numbers have declined and the Forest Service blames this on human activity and more particularly on climate change. (see attached map)

The FS Aquatic Specialist Report by Chad Landress states: "Brook trout are considered an excellent indicator species in regards to temperature and sediment. They have the lowest temperature sensitivity and sedimentation thresholds of the six RFSS and MIS that may occur in the analysis area (Newcombe and Macdonald 1991; Curry and MacNeill 2004; Edwards et al. 2007; Meador and Carlisle 2007) Decreases in brook trout occurrence and abundance in the project area (Table 6) indicate temperature and hydrologic alteration as the primary causation for these declines" …This analysis relied on brook trout as a more sensitive indicator of watershed effects. Brook trout are found further upstream in headwater streams (e.g., 1st and 2nd order streams) and closer to proposed actions.

One way to mitigate against temperature rise that degrades trout habitat is to forgo timbering here especially in headwater streams. This approach is not considered in the draft EA for the Upper Cheat even though rising temperaturles are documented. Leaving large trees in place seems like an obvious solution to dealing with climate change in this situation but is left out of the equation.

In the FS Specialist Report by Chad Landress, there is some information on previous logging:
Timber harvest has occurred on NFS lands and on private land in the project area in the recent past. Approximately 5,184 acres of private land has been harvested in the past five years. Approximately 1,730 acres of NFS land has been harvested since 2005 for the Lower Clover and Hogback projects. Timber harvest can negatively affect watershed health through ground disturbance, road and trail building and close-out, as well as from alterations to hydrology from vegetation removal. Effects on hydrologic alterations from vegetation removal will be analyzed independently within the context of past, ongoing, and reasonably foreseeable continued operations on private lands in addition to the proposed timber harvest in this project.

In addition, the Upper Cheat proposes logging 3,500 acres with more tree removal for log landings and skid roads. All this activity opens up the canopy allowing more sunlight into the forest floor and waterways warming streams and reducing favorable conditions for brook trout. With a changing and warming climate this type of disturbance works against climate change mitigation and could extirpate trout from these streams. This logging should not take place on steep slopes and /or near trout streams.

III.Conclusion

As currently proposed, the Upper Cheat project may have significant adverse impacts to old forests, federally listed species, and sensitive species. We ask the Forest Service to abandon the current proposal and pursue an alternative that will have far less-damaging impacts. A project of this size, scale, and environmental impacts also

requires the preparation of an Environmental Impact Statement (EIS) with additional comment periods.

Thank you for the opportunity to participate in commenting on this proposal. FOB supports the NEPA process, which allows for thorough public involvement in reviewing and commenting on proposals. FOB strongly supports the use of the best available science in decision-making, and providing, without prejudgment, a wide range of alternatives to consider. We particularly appreciate face-to-face or virtual meetings on the issues raised by timbering proposals in the Cheat Potomac Ranger District. Comment Letter, map & petition attached as pdf.

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