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Comments: Please see attached letters from Governor Gianforte and the Montana Department of Natural Resources and Conservation. Included is a letter sent earlier this year and referenced in Governor Gianforte's letter.

September 20, 2024

The Honorable Thomas J. Vilsack Secretary

U.S. Department of Agriculture 1400 Independence Avenue S.W. Washington, D.C. 20250

Linda Walker

Director, Ecosystem Management Coordination

U.S. Forest Service

U.S. Department of Agriculture 201 14th Street SW, Mailstop 1108

Washington, D.C. 20250

RE: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System #65356

Secretary Vilsack and Ms. Walker:

Thank you for the opportunity to comment on the U.S. Forest Service (USFS) Draft Environmental Impact Statement (DEIS) regarding Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System. As your staff frequently refer to this effort as the National Old-Growth Amendment, or NOGA, you will see that language appear throughout this comment. On behalf of the Montana Department of Natural Resources and Conservation (DNRC), we offer the following feedback and urge the USFS to fully consider the expertise and knowledge we have provided.

1. The cooperating agency process has been rushed and lacking in substantive information.

The State of Montana has been engaged in this effort as a cooperating agency since 2022, offering our perspective and concerns along the way. "Cooperation" with us has been lackluster at best. DNRC was brought in extremely late to the process, not receiving the full DEIS or relevant information until it was released to the general public. We were asked to share our data to bolster the DEIS without having the opportunity to review it

before public release.

The DNRC takes its roles and responsibilities as a cooperator seriously. State agency engagement is speci?cally contemplated in the planning process because of our on-the- ground expertise. Dozens of public meetings do not make up for the signi?cant lack of information, data, and science we require to fully engage in such an impactful effort.

Further, during a cooperating agency call on September 12, 2024, cooperators were noti?ed that because you, Mr. Secretary, are the "responsible official" on this plan amendment, we will not be able to see the full Final Environmental Impact Statement (FEIS) prior to publication. This has left us feeling, yet again, as though our participation as a cooperator is merely to check-a-box. All cooperators deserve to see the FEIS before it is published. It is incredibly disappointing that the time and effort we have invested will yet again be disregarded.

2. We are concerned about how mature forests are discussed, especially considering how litigious Region 1 is.

The DNRC is concerned with reference in the DEIS "Summary" to mature forests. Page S-4 states, "The amount and distribution of mature forests across the National Forest System suggest that many of these lands have the inherent capability to sustain old-growth forests into the future." Yet Page S-5 indicates that "[m]ature forest is not being included in conjunction with old-growth[hellip]for all aspects of the amendment. However, the amendment does place an emphasis on identifying and prioritizing areas of mature forest to be managed for future old-growth forest[hellip]" These references to mature forests create an expectation that they are important and, at least in some cases, should be managed to move them towards old growth. The problem is they aren't clearly de?ned, and an inventory and analysis of which mature forests might be important in the future doesn't exist.

Neither the DEIS, nor the prior work of the USFS to de?ne and inventory mature and old- growth forests, resulted in a universal and coherent de?nition for mature forests. The threat assessment does, however, state on page 22 that there were "difficulties and inherent contradictions that scientists face when attempting to de?ne and inventory old-growth and mature forests."

Both the DEIS and the threats and de?nitions document indicate a need to better inventory and de?ne these areas. They make a commitment to a national-scale effort. An analysis of this size and scope will take an enormous number of ?nancial resources and staffing capacity to complete forest inventories, mapping work, and additional planning. Until that occurs, it remains to be seen what ongoing work in each National Forest will take place without additional budgetary resources, planning, and time. Has the USFS planned and budgeted for this work? How long will it take? We have asked these questions during the cooperating agency meetings and have not been given an answer.

Until these concerns are addressed, desperately needed forest management projects will be delayed. Given how litigious Region 1 already is, the mere mention of mature forests within the DEIS is likely to fuel frivolous litigation that will further restrict crucial active forest management across Montana. Since the document says mature forests are not part of this analysis for old-growth, all reference to them must be removed from the DEIS.

3. The plan amendment fails to capture the impact NOGA will have on the timber industry.

Page S-14 of the DEIS summary states that this effort will not affect the timber industry. The DNRC disagrees. The DEIS fails to analyze the potential increase in litigation in Region 1, already the nation's most heavily litigated region. This plan amendment will create even more opportunities for litigation, further hampering much-needed forest restoration.

Montana's timber industry is in serious jeopardy with the recent announcement of two more mill closures. Our remaining six large conversion facilities cannot have more delays in getting needed forest management completed in our state. This timber industry infrastructure is necessary to economically treat the massive number of acres in our state that are at critical risk for wild?re and insects and disease. It appears, yet again, that USFS is glossing over details in a race to complete this planning effort. The impacts to our timber industry are essential to understand and USFS must undertake this analysis before any further action can be taken.

4. The plan amendment ignores the reality of forest health conditions and ?re risk on the ground.

The DNRC agrees with the USFS that the biggest threat to old-growth forests in our state is ?re. We also agree that the second biggest threat to old-growth forest is loss due to insects and disease. Further, we ?rmly agree that timber harvests are a negligible threat to the long-term ecological integrity and survival of old-growth forests. In fact, we would assert that timber harvests restore and maintain old-growth forests, particularly since frequent ?re is often necessary to ensure their long-term sustainability and proliferation on the landscape. We also agree that proactive stewardship is necessary to ensure old-growth stands remain on the landscape and are restored to a condition that will provide resilience to the threats described above.

Despite these shared points, we are concerned that this effort and the anticipated litigation in Region 1 is contrary to successful implementation of the USFS' Wild?re Crisis Strategy (Strategy). The USFS regularly proposes projects that meet the goals and intentions of the Strategy, yet they sit in the courts for years awaiting approval. Proactive management, up to and including commercial timber harvests, is necessary for maintaining the health and resiliency of old-growth forests. However, our experience has indicated the serial litigants in Montana do not agree. They regularly challenge vegetation management projects of all kinds based on a misplaced beliefs that the way to protect forests (regardless of age or size class) is to let them catch fire and burn. We expect the usual list of litigants to challenge proactive forest management. This will lead to increased workloads for USFS staff, including increased National Environmental Policy Act analysis, litigation, and other cascading events that ultimately lead to lengthy delays of important projects and an overall lack of progress on the Strategy.

Unprecedented forest health and wild?re issues plague Montana's forests. Overstocked and decaying forests are contributing to longer, more severe ?re seasons that endanger our communities and infrastructure, while insects and disease continue to spread at epidemic proportions. The Montana Forest Action Plan, which was ?nalized in December 2020, identi?ed approximately one-third of the forested landscape in Montana with "signi?cant forest health concerns and high wild?re risk to communities and infrastructure." Given this information, we believe the USFS put little, if any, effort into understanding the health of existing old-growth stands. Identifying a stand as 'old-growth' is not meaningful in terms of the state of overall forest health or existing insect and disease issues that may be present. The same can be said for complex underlying factors which would be bene?cial to understanding the scale of work required to maintain or sustain its status.

Montana has spent considerable time and resources crafting our State Forest Action Plan. This effort involved a collaborative multi-disciplinary process to conduct an in-depth analysis of forest conditions and trends in our state. We strongly encourage individual forests and regions to coordinate with the DNRC and seriously consider Montana's Forest Action Plan when determining old-growth, developing 'Adaptive Strategies for Old-Growth Forest Conservation,' and developing individual projects. Coordination with state forestry agencies and other stakeholders will help ensure that the bene?ts from old-growth forests are realized while minimizing unintended negative social, economic, or cultural impacts.

5. We are concerned about the Forest Service's ability to implement the necessary steps to move this effort forward effectively.

The DNRC is concerned that the DEIS creates several follow up expectations and actions to implement. In Region 1 the USFS routinely struggles to meet self-identi?ed targets and output metrics to address and maintain the health and integrity of our nation's forests. Will there be appropriate funding and staffing to accomplish the large amount of work required in a timely fashion? Will all these requirements remain unfunded and unstaffed, leading to even greater delays in implementing needed projects throughout our National Forests in pursuit of the Wild?re Crisis Strategy?

Developing the 'Adaptive Strategies for Old-Growth Forest Conservation,' increased monitoring, and training to implement new guidance will all require additional funding and staff time. The DNRC has serious concerns that this additional workload cannot be completed without negatively impacting the timelines of existing priority projects that are critical to forest health and community safety.

We appreciate the USFS' efforts to include Objective 2, which requires implementing three proactive stewardship projects within one year of completing the Adaptive Strategies for Old-Growth Forest Conservation, but we are concerned new projects will delay ongoing projects. We encourage individual forests and/or regions to actively and meaningfully coordinate with states to ensure these projects incorporate priorities from State Forest Action Plans, complement existing interagency efforts, and do not delay ongoing efforts. To accomplish these things, we would like to know what funding is being dedicated to these efforts in addition of the existing program of work.

The DNRC appreciates that the USFS is attempting to identify common sense solutions in anticipation of implementation challenges that will arise from ?nalizing the NOGA effort. However, based on our experiences, we remain concerned that this will be difficult to implement. Restrictive land management designations that are currently in place, such as the roadless rule, offer exceptions to allow for active management, but history shows that the use of these exceptions tends to be controversial, creates already burdensome National Environmental Policy Act implementation process hurdles, adds an extra layer of complexity, and makes projects vulnerable to objection and litigation. For these reasons, USFS line officers are reluctant to use these exceptions, limiting the opportunity to accomplish desperately needed management in a timely fashion. The DNRC would like a stronger emphasis included in the DEIS that these exceptions are in place and must be used where appropriate.

6. We are concerned about the unintended consequences this amendment will have on the implementation of the National Cohesive Wildland Fire Management Strategy and the Forest Service's Wild?re Crisis Strategy (Strategies).

The DNRC believes the USFS needs more tools to efficiently treat all age classes of timber stands within the Wildland Urban Interface (WUI) to implement the stated goals and objectives of these important Strategies. The DEIS recognizes that 25 percent of old- growth exists in the WUI and states that (pg. 99) "modifying ?re behavior will remain a priority in the [WUI], which is typically, but not always, compatible with stewardship of old- growth ecosystems." The DEIS also includes exceptions under Standard 2.c, which allows for management other than proactive stewardship when needed. The DNRC believes the exceptions in Standard 2.c on page 31 are critically necessary to meet the needs of local ecosystems and communities. Of these, the most important in Montana are 2.c.i and 2.c.ii. These exceptions allow for wild?re risk management activities that do not meet the de?nition of proactive stewardship within municipal watersheds or the WUI to meet wild?re risk reduction objectives and protect public health and safety are of paramount importance. These will be absolutely necessary to meet the objectives of the NationalCohesive Wildland Fire Management Strategy and the Forest Service's Wild?re CrisisStrategy.

We also believe the paragraph on page 99 should be strengthened to read as follows:

Modifying ?re behavior to reduce wild?re risk to communities, critical infrastructure, and other values at-risk identi?ed in Community Wild?re Protection Plans and other locally adopted planning tools will remain the number one priority in the wildland- urban interface. Reducing the ?re risk is almost always compatible with stewardship of old-growth ecosystems. In the atypical areas where these two objectives are not compatible, standard 2.c will be utilized and wild?re risk reduction needs will take precedence over stewarding old-growth forests.

Additionally, the DNRC is concerned there has been no analysis regarding how designation of old-growth will impact ?re management strategies across the west. Serious questions remain as to whether ?re managers will be expected to assign ?re?ghting resources to "protect" identi?ed old-growth stands from wild?re and how they will be treated as a "value" from a ?re management standpoint. The answer to these questions has the potential to impact resource allocations and ?re response across the west in an unexpected and potentially devastating way. Further, if old-growth is lost due to wild?re, we are concerned that the priority will then shift to protect "old-growth recruitment" stands. If it is identi?ed as a "value at risk" and ?re?ghting resources are expected to take action to protect old-growth, this potentially takes resources away from protecting communities and infrastructure.

7. Considering all these issues, the only viable alternative is Alternative 1.

The only logical recommendation we can make is to select the "no action" alternative (Alternative 1). With the exception of Alternative 2, the other alternatives unacceptably remove commercial timber harvest as a tool. None of the l alternatives bene?t Montana, which has already incorporated solid old-growth management strategies in our current Forest Plans. This misguided one-size-?ts-all national effort will only increase the disproportionate level of frivolous environmental litigation that delays and disrupts much needed work on our forest health and wild?re crisis.

In closing, it is notable that we continue to learn about important aspects of the NOGA through the cooperating agency meetings. Many new important details and issues were brought up by Forest Service staff and other cooperators at the small group meeting that occurred on September 18, two days before the comment period closes. We heard that dialogue and opportunities for input would continue after the comment period was closed. All of this goes to show the level of complexity and importance this effort has to the many cooperating agency partners. However, the fact that this is occurring at the very late stage of the process and will need to continue even beyond the closing date for comments, shows the timeline for this effort is inappropriate and inadequate.

Thank you again for the opportunity to provide feedback.

ATTACHMENT: 9-20-24 DNRC NOGA DEIS Comment.pdf - this is the same content that is coded in text box; it was originally included as an attachment

ATTACHMENT: Western Governors' Letter on Forest Policy.pdf - included in comment by reference; coded below

February 6, 2024

The Honorable Joseph R. Biden, Jr. President

The White House

1600 Pennsylvania Ave NW Washington, DC 20500

The Honorable Thomas J. Vilsack Secretary

U.S. Department of Agriculture 1400 Independence Avenue S.W. Washington, D.C. 20250

RE: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System #65356

Dear Mr. President and Secretary Vilsack:

Thank you for the opportunity to submit comments to the United States Department of Agriculture (USDA) and United States Forest Service (USFS) regarding the notice of intent (NOI) to prepare an environmental impact statement amending all land management plans for units of the National Forest System to include old-growth forest conditions. We write today to express our concerns with this effort, especially in light of the wildfire and forest health crisis our states are facing.

We have watched this effort unfold over the course of nearly two years. During this time, USDA and USFS leadership have failed to engage with us as leaders of our states to address any of the challenges and flaws we

have identified with this old-growth forest policy. While the NOI seems to suggest that there were areas of consensus, we clearly do not agree with that assessment. Our concerns remain ignored. The April 20, 2023, inventory highlights the USFS' lack of collaboration with our states and its disregard for our concerns. For example, the initial released map displays large swaths of state forests, private property, farmland, and municipalities as having old growth conditions. This is simply poor execution and showcases the failure of collaboration with this proposal. We cannot have confidence that this policy is sound and supported by science if the USFS cannot even accurately identify the land it manages. The USFS should abandon this effort or at the very least, begin this process again.

Fundamentally, existing old-growth forest definitions are sound and sufficient for informing decisionmakers, and there is no need for a definition for mature forests. Old-growth is a complex ecological concept or characteristic, and the very idea that a universal definition could apply across the entire nation is problematic and flawed. Land managers across ownerships face significant challenges, ranging from the lack of landscape-scale forest management to administrative delays to uncertainties associated with forest management on federal lands.Amending forest management plans to "conserve" or "recruit" old-growth, or mature stands, will simply not aid these land managers in meeting the ambitious goals set forward by each of us to address our forest health and wildfire crisis, nor the USFS' "Wildfire Crisis Strategy: Confronting the Wildfire Crisis."1In fact, this effort runs counter to our State Forest Action Plans, which represent significant investments in time and resources to meaningfully guide our work among federal, state, tribal, and other stakeholders. Our state forest action plans have addressed old-growth and mature forests through established planning rules and processes. These are sound plans developed with a high level of analysis and collaboration, which is in direct contrast to this effort USDA and USFS have undertaken.

We are witnessing a concerning theme across federal land management agencies where decision- making is being elevated to the Washington Office and the expertise of the field is being ignored. This very effort in question is reflective of this reality. USDA and USFS should be focusing on where the need truly is - removing administrative bottlenecks and working with partners to increase the pace and scale of forest management projects in order to meaningfully address our forest and wildfire health crisis.

Attachment: 24.09.20 - Ltr. to Secretary Vilsack - Land Management Plan.pdf - Govenor's letter coded below. this was originally sent as an attachment

September 20, 2024

The Honorable Thomas J. Vilsack Secretary

U.S. Department of Agriculture 1400 Independence Avenue S.W. Washington, D.C. 20250

KRISTEN JURAS

LT. GOVERNOR

RE: Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System #65356

Dear Secretary Vilsack:

I write today to submit comments regarding the Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System (National Old-Growth Amendments) Draft Environmental Impact Statement (DEIS).

For several years, I have followed the development of this national old-growth forest policy with significant concern. On February 6, 2024, joined by the Governors of Utah, Idaho, Wyoming, South Dakota, and Nevada, I sent a letter to you and President Joe Biden detailing my concerns over many aspects of the proposal, including the flawed process and the inconsistency of this initiative with existing State Forest Action Plans that were developed in partnership with the U.S. Forest Service.1 Unfortunately, not much has changed since sending that letter. My staff and state agencies have been stonewalled from fully cooperating on the development of this DEIS. It has also come to my attention that the eventual Final Environmental Impact Statement for the Old-Growth Amendments may not even be shared with states and other cooperating agencies.

From the beginning, the National Old-Growth Amendments initiative was ill-conceived and haphazard. The April 20, 2023, inventory of forests with old-growth characteristics initially included large swaths of state forests, private property, farmland, and even municipalities. Such egregious errors could have been avoided by working with states, instead of shutting them out of the process. This flawed process has now produced flawed policy and a flawed DEIS.

The Montana Department of Natural Resources and Conservation (DNRC) has compiled a list of serious concerns with the DEIS and the National Old-Growth Amendments and I encourage you to seriously consider each of the concerns contained within its comment letter, which I have attached and submitted along with this

letter.

As a general matter, the very idea that a one-size-fits-all concept of "old-growth" could apply across the entire nation is problematic. Forest management needs to be tailored to address the site-specific, local challenges facing each forest in each state. This top-down approach injects further complexity into an already needlessly complex and interminable forest planning process and creates new and fertile ground for litigation.

Perhaps most frustrating is the time and effort spent on this policy at a time when our ongoing forest health crisis remains largely unaddressed. The time and resources spent on this initiative could have been spent on fighting catastrophic wildfires, supporting state Good Neighbor Authority programs, implementing mechanical treatments, and carrying out appropriate prescribed bums. Time and expertise that could have been spent on assisting states and regions with their individual challenges have been spent creating new challenges. In fact, old-growth forest conditions can already be protected through existing policy tools and the existing forest planning process.

This proposal is a solution in search of a problem at a time when existing problems abound: rising insurance costs, suffocating wildfire smoke, and disappearing mills and timber jobs plague our forest communities. These proposed amendments will only exacerbate these problems by making active forest management more difficult and more susceptible to activist lawsuits.

I urge you to select the "no action" alternative, and by doing so, create the opportunity to set a new course to address the systemic forest health crisis facing our country. I also ask that you release the Final Environmental Impact Statement, in full, to cooperating agencies. Montana continues to stand ready to work with the U.S. Forest Service to make progress in this battle against dangerous forest health conditions.

Sincerely,

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1 Governors' Letter to President Biden and Secretary Vilsack, see Appendix 1.