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First name: Kurt

Last name: Miller

Organization: Northwest Public Power Association

Title: Executive Director

Comments: Please see the attached formal comments from a coalition of community-owned electricity utilities and trade associations in the Western United States.

Thank you,

Kurt

September 20, 2024 Randy Moore, Chief

United States Forest Service 1400 Independence Ave., SW Washington, D.C. 20250

RE: U.S. Forest Service Draft Environmental Impact Statement Regarding Its Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System.

Dear Chief Moore,

On February 2, 2024, a collection of community-owned ("Public Power") utilities and their representatives responded to the "U.S. Forest Service (USFS) Notice of Intent to Prepare an Environmental Impact Statement Regarding Its Land Management Plan Direction for Old-Growth Forest Conditions Across the National Forest System."

Our comments focused on potential impacts of the proposed amendment to Land Management Plans for old growth forests as articulated in the DEIS (Proposed Amendment) to special use permits that Public Power entities operate under on USFS land, particularly as it relates to maintaining rights of way through vegetation management. Public Power utilities and the communities we serve share the goal of the USFS in fostering "the long-term resilience of old-growth forests and their contributions to ecological integrity across the National Forest System."<sup>1</sup> We believe this objective requires careful consideration of the USFS's multiple-use mandate and deeper consultation and better coordination with forest stakeholders.

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<sup>1</sup> "Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System," Draft Environmental Impact Statement; June 2024; p. S-1

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We appreciate that the USFS in the Draft Environmental Impact Statement ([ldquo]DEIS[rdquo]) acknowledges that, "special use authorizations would not be affected since the alternatives allow for reasonable actions that would ensure the safety and reliability of operations or activities.[rdquo]<sup>2</sup> However, as we will detail below, we remain concerned that certain approaches outlined in the DEIS are in direct con?ict with other areas of applicable law, most notably Section 512 ([ldquo]Sec. 512[rdquo]) of the Federal Land Policy and Management Act ([ldquo]FLPMA[rdquo]). We request that revisions in both process and substance be made to the Proposed Amendment to address areas of con?ict prior to publication of a Final Environmental Impact Statement.

Speci?cally, we ask that the USFS modify the Proposed Amendment to explicitly recognize the authorities under Sec. 512 and list the ability to manage vegetation, including mature and old growth trees, for the purposes of meeting the requirements of the law under the FLPMA. In addition, the Proposed Amendment does not account for new special use authorizations to further the Administration[rsquo]s decarbonizations goals, which will necessitate the siting of new energy infrastructure. Transmission lines are linear in nature and will need to cross the National Forest System. The USFS must address and account for the need for new transmission to support decarbonization goals in the Proposed Amendment.

As described in the [ldquo]Forest Service Handbook 2709.11 - Special Uses Handbook, Chapter 80 [ndash] Operating Plans and Agreements for Powerline Facilities[rdquo] (Effective Date: February 10, 2022), Sec. 512, [ldquo]establishes requirements for authorizing powerline facilities on National Forest System (NFS) lands, include the scope of and liability for special use authorizations for powerline facilities. Section 512 of FLPMA, 43 U.S.C. 1772, establishes requirements and procedures for operating plans and agreements for special use authorizations for powerline facilities and on NFS lands adjacent to either side of the linear right-of-way.[rdquo]<sup>3</sup>

The handbook goes on to state that, [ldquo]FLPMA governs the development, review, and approval of proposed operating plans and agreements for vegetation management, inspection, and operation and maintenance of powerline facilities on NFS lands inside the linear right-of-way for powerline facilities and felling and pruning of hazard trees on NFS lands adjacent to either side of the linear right-of-way,[rdquo]<sup>4</sup> with the goal of developing approved operating plans and agreements which provide, [ldquo]long-term, cost-effective,

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<sup>2</sup> [ldquo]Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System,[rdquo] Draft Environmental Impact Statement; June 2024; p. S-13

<sup>3</sup> [ldquo]Forest Service Handbook 2709.11 - Special Uses Handbook;[rdquo] Chapter 80 [ndash] Operating Plans and Agreements for Powerline Facilities; Effective Date: February 10, 2022; p. 3; [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd1106567.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1106567.pdf)

p[Agreements for Powerline Facilities; Effective Date: February 10, 2022; p. 3; [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd1106567.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1106567.pdf)

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efficient, and timely inspection, operation and maintenance, and vegetation management of powerline facilities on NFS lands.[rdquo]<sup>5</sup> We believe the Proposed Amendment poses contradictions and barriers to achieving

these objectives and will further impact the ability of the utilities and federal land managers to execute on reasonable collaborative Forest Health work.

The USFS should eliminate ambiguity in the Proposed Amendment pertaining to the ability of Public Power utilities to implement fire mitigation measures in mature and old growth forests. As pointed out in the DEIS, [quod]mortality from wildfires is currently the leading threat to mature and old-growth forests, followed by insects and disease.[quod]<sup>6</sup> The analysis also found that tree cutting is now a relatively minor threat compared to climate amplified disturbances such as wildfires, insects, and disease.

Public Power shares this perspective. The risk fire poses to mature and old growth forests is also the one of the greatest threats to operational certainty and safety related to Public Power utilities and the communities we serve. Ensuring we can properly mitigate these risks is a service to both our communities and Forest Health goals.

Below, we have outlined areas where we think the Proposed Amendment as articulated in the DEIS exposes contradictions to facilitating the development and implementation of operating plans and agreements and where we seek modifications.

Ensuring fire safety and electrical system reliability requirements

Safety and reliability are the foundations upon which our utilities operate. Reliability requires operational certainty informed by careful planning. Congress has recognized reliability as a priority when it required federal public land managers to ensure that guidance promulgated for vegetation management [quod]shall be compatible with mandatory reliability standards established by the Electric Reliability Organization.[quod]<sup>7</sup>

While the Proposed Amendment recognize the significant threat posed to old growth forests by wildfires<sup>8</sup> and that [quod]common vegetation management objectives and practices will continue under all alternatives, both within and outside of old growth, as governed by the relevant land management plan,[quod]<sup>9</sup> there are a number of instances where the Proposed

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<sup>5</sup> [quod]Forest Service Handbook 2709.11 - Special Uses Handbook;[quod] Chapter 80 [dash] Operating Plans and Agreements for Powerline Facilities; Effective Date: February 10, 2022; p. 3; [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd1106567.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1106567.pdf)

<sup>6</sup> Analysis of Threats on Lands Managed by the Forest Service and Bureau of Land Management report, June 2024

<sup>7</sup> Sec. 512; FLPMA

<sup>8</sup> Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System,[quod] Draft Environmental Impact Statement; June 2024; pp. 71 [dash] 72; 75; 81

<sup>9</sup> [quod]Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest

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Amendment seems incompatible with these policies. We are gravely concerned that the articulation of Guideline 1 as outlined in the DEIS will render the practical application of the intent and practice of Sec. 512 of FLPMA meaningless for large parts of the western U.S. [ldquo]Guideline 1[rdquo] states, [ldquo]In areas that have been identified in the Adaptive Strategy for Old- Growth Forest Conservation as compatible with and prioritized for the development of future old-growth forest, vegetation management projects should be for the purpose of developing those conditions.[rdquo]10 The USFS in the DEIS goes on to describe the intent of this guideline as supporting, [ldquo]the recruitment and development of future old-growth forests by constraining vegetation management projects in areas that have been identified and prioritized for the recruitment and development of future old-growth forests [emphasis added].[rdquo]11 The recent inventory of mature and old growth forests performed by the USFS has identified vast swaths of the states that our members serve as meeting the definition of [ldquo]mature[rdquo] or [ldquo]old growth.[rdquo]12

Later in the document, the USFS in the DEIS states:

The Modified Proposed Action (Alternative 2) and the Less Restrictive Alternative (Alternative 4) do not contradict the Wildfire Crisis Strategy. There is no intent for these alternatives to contradict or preclude progress on the Wildfire Crisis Strategy. Language has been added to Standard 2.a.i in the Modified Proposed Action to clarify that management actions are permitted [ndash] and encouraged [ndash] for the reduction of hazardous fuels to reduce the risk of loss of old-growth forests to uncharacteristic wildfire [emphasis added], and to facilitate the return of appropriate fire disturbance regimes and conditions. Additionally, the exceptions in 2.c.i in the Modified Proposed Action were expanded to include municipal watersheds and protection of critical infrastructure. Clarification was also added regarding the Wildland Urban Interface (WUI) definition to be applied.[rdquo]13

The Proposed Amendment should explicitly recognize the authorities under Sec. 512 and list the ability of electric utilities with special use permits to manage vegetation, including mature and old growth trees, for the purposes of meeting the requirements of the law under the FLPMA. Further, to eliminate confusion, the USFS should modify the final EIS to ensure that vegetation management can occur for the purposes of maintaining utility rights-of-way regardless of the status of the forest or what status the USFS is managing the forest to become. Without greater clarification of intent and purpose, the USFS risks undermining important fire management protocols that the agency has identified as fundamental to maintaining forests and meeting its obligations to ensure grid safety and reliability.

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10 [ldquo]Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System,[rdquo] Draft Environmental Impact Statement; June 2024; p.33

11 [ldquo]Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System,[rdquo] Draft Environmental Impact Statement; June 2024; p.33

12 [ldquo]Mature and Old-Growth Forests: Definition, Identification, and Initial Inventory on Lands Managed by the Forest Service and Bureau of Land Management in Fulfillment of Section 2(b) of Executive Order No. 14072[rdquo]; April 2024 (revised); p. 14;

[https://www.fs.usda.gov/sites/default/files/fs\\_media/fs\\_document/Mature-and-Old-Growth-Forests.pdf](https://www.fs.usda.gov/sites/default/files/fs_media/fs_document/Mature-and-Old-Growth-Forests.pdf)13  
[Idquo]Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System,[rdquo] Draft Environmental Impact Statement; June 2024; p. 16

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A similar concern arises regarding Standard 2.a, Standard 2.b., and Standard 2.c. Standard 2.a states:

Where conditions meet the definitions and associated criteria of old-growth forests, vegetation management may only be for the purpose of proactive stewardship. For the purposes of this standard, the term [Idquo]vegetation management[rdquo] includes [ndash] but is not limited to [ndash] prescribed fire, timber harvest, and other mechanical/non-mechanical treatments used to achieve specific silviculture or other management objectives (e.g., hazardous fuel reduction, wildlife habitat improvement). For the purposes of this standard, the term [Idquo]proactive stewardship[rdquo] refers to vegetation management that promotes the quality, composition, structure, pattern, or ecological processes necessary for old-growth forests to be resilient and adaptable to stressors and likely future environments [emphasis added].

The USFS further proceeds to list activities in the DEIS it considers to be proactive stewardship.<sup>14</sup>

The revised standard 2.b is of particular concern, because it includes the possibility that if prudent vegetation management would change the status of an ecologically appropriate scale, then the vegetation management could be disallowed. Standard 2.b now states:

The cutting or removal of trees in old-growth forest for purposes other than proactive stewardship is permitted when (1) incidental to the implementation of a management activity not otherwise prohibited by the plan, and (2) the area [ndash] as defined at an ecologically appropriate scale [ndash] continues to meet the definition and associated criteria for old-growth forest after the incidental tree cutting or removal [emphasis added].<sup>15</sup>

And further, standard 2.c now states that [Idquo][d]eviation from Standard 2.a and 2.b may only be allowed if the responsible official determines that vegetation management actions or incidental tree-cutting or removal are necessary for the following reasons and includes the rationale in a decision document or supporting documentation [emphasis added].[rdquo]<sup>16</sup>

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<sup>14</sup> See DEIS page 29.

<sup>15</sup> [Idquo]Amendments to Land Management Plans to Address Old-Growth Forests Across the National Forest System,[rdquo] Draft Environmental Impact Statement; June 2024; p.30

<sup>16</sup> See Draft EIS page 31.

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By focusing on preventing impacts to old growth forests, the articulation of wildfire mitigation management practices and their purposes are too narrowly defined in the DEIS. While the DEIS incorporates by reference [idquo]other statutes or regulations,[rdquo] the de-emphasizing of the statutorily mandated obligations under Sec. 512 of FLPMA will lead to a regulatory regime riddled with additional complexity and confusion in facilitating necessary actions to mitigate against wildfire.

Public Power utilities ask that the USFS modify the Proposed Amendment to explicitly recognize the authorities under Sec. 512 and list the ability to manage vegetation, including mature and old growth trees, for the purposes of meeting the requirements of the law under the FLPMA.

#### Minimize the Need for Case-By-Case Approvals

A significant objective of Sec. 512 of FLPMA is to minimize the need for case-by-case approvals for routine vegetation management so that utilities may proceed with wildfire mitigation actions without having to engage in lengthy processes or hinder or delay work that needs to occur in the near term.

The Proposed Amendment as articulated in the DEIS risks creating barriers and obstacles to the development and approval of vegetation management plans and agreements. Many of our members are in the process now of revising and updating these plans; the ambiguity and complexity associated with much of what is proposed in the DEIS risks derailing these efforts. The Proposed Amendment must not interfere with the development and implementation of vegetation management plans and the operational certainty and reliability they are meant to provide.

#### Facilitates Necessary Grid Hardening and Vegetation Removal

The threat of wildfire is persistent and growing. Every analysis and environmental review that touches on the subject identifies the challenges associated with creating management systems that promote prevention and resilience.

Recently, the Wildland Fire Mitigation and Management Commission identified the need for wholesale change in adapting management practices to confront the threat posed by wildfire. Their most recent report called for nothing short of an overhaul in this regard:

[idquo]There is a need for a paradigm shift toward systems and structures that are more comprehensive and better address the interrelationships between communities and landscapes and between pre-fire mitigation, response, and post-fire recovery efforts. This includes greater integration between wildfire-related programs, procedures, policies, and workforces and incorporation of issues and sectors that have traditionally been set apart from the wildland fire discourse or handled disparately. Solutions should not and cannot be accomplished by federal agencies alone, but must involve individuals, entities, and jurisdictions at every level of society. A range of different approaches, including greater coordination, interoperability, collaboration, and, in some cases, simplification will be needed to accomplish these aims. There is a need for both incremental and fundamental change, but the Commission emphasizes that top-down, one-size-fits-all approaches and opportunistic half-measures will continue to fall short of desired outcomes.[rdquo]17

The USFS should incorporate these policy conclusions in the final EIS for the Proposed Amendment. We need a

consistent set of rules and operational practices to address permitting approval and timelines for both regular and emergency work in electric transmission rights-of-way on federal lands. Activities in this category of work include:

1. Operation, maintenance, or repair of equipment and structures within existing substations, switching stations, transmission, and distribution lines;
2. Routine and emergency vegetation management, including removal of hazard/danger trees (regardless of [ldquo]mature[rdquo] or [ldquo]old growth[rdquo] status) and other hazard/danger vegetation within or adjacent to an existing right of way;
3. Wildfire mitigation activities that are enumerated in an approved operations and maintenance plan;

1. Any repair, maintenance, upgrade, optimization, or minor addition to existing transmission and distribution infrastructure, within an existing right-of-way; and
2. Post wildfire recovery efforts.

The Proposed Amendment as represented in the DEIS should be amended to more explicitly recognize the need and value of these activities and remedy unclear or ambiguous language that will undermine or create barriers to operationalizing these policies and advancing further collaboration between federal land managers and utilities.  
Better and Deeper Consultation

While the USFS has sought comments through publication of the Notice of Intent (NOI) and the DEIS, the process for developing amendments to land management plans for old growth has lacked substantive engagement with Public Power utilities. Sec. 512 mandated that the directives utilized to implement the law should be developed in consultation with owners of electricity infrastructure crossing USFS land. As the USFS further refines the agency's approach to promoting old growth resiliency, we urge the USFS to make a greater effort to consult with owners of electricity infrastructure crossing USFS lands. This will contribute to transparency and coordination in developing the Proposed Amendment and its eventual efficacy in balancing the requirements of our multiple-use forests.

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17 [ldquo]ON FIRE: The Report of the Wildland Fire Mitigation and Management Commission;[rdquo] September 2023; p. 16; <https://www.usda.gov/sites/default/files/documents/wfmmc-final-report-09-2023.pdf>

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Sec. 512 of FLPMA contemplated the need for consultation and information sharing between federal land managers and the utility industry, stating:

[ldquo]In consultation with the electric utility industry, the Secretary concerned is encouraged to develop a program to train personnel of the Department of the Interior and the Forest Service involved in vegetation management decisions relating to electric transmission and distribution facilities[hellip][rdquo]18

This dialogue, as directed by Congress, is important to facilitating greater understanding and insight to achieving

the different objectives of our multiple-use forests.

To facilitate further dialogue regarding the concerns of Public Power utilities, we would propose a series of meetings to include owners of electrical utility infrastructure crossing USFS lands, regional foresters' representatives, and appropriate headquarters representatives from USFS and USDA. Beginning in October 2024 we would propose a series of a minimum of three meetings, held once a month over the course of three months to address the questions and concerns utilities have regarding development of and eventual implementation of an old growth amendment to Land Management Plans. Topics would include: 1) impacts to plan development and amendments, 2) impacts to placement of new energy infrastructure, 3) impacts to vegetation management, and 4) the practical application of the rules to avoid case-by-case approvals for vegetation management.

#### Conclusion and Recommendations

Public Power utilities recommend that the USFS modify the DEIS to address the following concerns:

\* While the DEIS incorporates by reference [ldquo]other statutes or regulations,[rdquo] the de-emphasizing of the statutorily mandated obligations under Sec. 512 will lead to a regulatory regime that riddled with additional complexity and confusion in facilitating necessary actions to mitigate against wild?re. The proposed amendment should be explicit in recognizing the authorities under Sec. 512 and list the ability to manage vegetation, including mature and old growth trees, for the purposes of meeting the requirements of the law under the FLPMA.

\* The ?nal EIS should ensure that vegetation management can occur for the purposes of maintaining utility rights of way regardless of the status of the forest or what status the USFS is managing the forest to become. Without greater clari?cation of intent and purpose, the USFS risks undermining important ?re management protocols that the agency has identi?ed as important to maintaining forests and meeting its obligations to maintain grid reliability.

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18 43 U.S.C. 1772(i)

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[middot] The Proposed Amendment should more explicitly recognize the need and value of operational practices by Public Power utilities to address permitting approval and timelines for both proactive Forest Health and Wild?re risk reduction and emergency work in and adjacent to electric transmission and distribution rights-of-way on federal lands. This should include operation, maintenance and repair of equipment, transmission, and distribution infrastructure, routine and emergency vegetation management, and wild?re mitigation activities undertaken by utilities to protect assets and reduce wild?re threat while creating bene?cial forest health and habitat outcomes.

\* While the USFS has sought comments to develop land management plans for old growth, additional engagement with public power utilities is necessary. A greater effort should be made to consult, collaborate, and partner with owners of electricity infrastructure crossing USFS lands to better contribute to the transparency and coordination regarding the development of the amendment and its eventual efficacy in balancing the requirements of our multiple-use forests.



\* The Proposed Amendment does not account for new special use authorizations to further the Administration's decarbonization goals, which will necessitate the siting of new energy infrastructure. Transmission lines are linear in nature and will need to cross the National Forest System. The USFS must address and account for the need for new transmission to support decarbonization goals in the Proposed Amendment.

Thank you for your attention to our concerns. We look forward to hearing from you.

Kurt W. Miller, Executive Director

Northwest Public Power Association

On behalf of Northwest Public Power Association, Alaska Power Association, Chelan County PUD, Consumers Power Inc., Flathead Electric Cooperative Association, Golden State Power Cooperative, Mason County PUD 1, Montana Electric Cooperatives' Association, Northern California Power Agency, Nevada Rural Electric Association, Oregon Municipal Electric Utilities Association, Oregon People's Utility District Association, Oregon Rural Electric Cooperative Association, Southeast Alaska Power Agency, Seattle City Light, Sacramento Municipal Utility District, Tillamook People's Utility District, Trinity Public Utilities District, Wyoming Rural Electric Association

ATTACHMENT: 2024-09-20 Joint Public Power Comments re Old Growth Forest Conditions DEIS\_version final.pdf - this is the same content that is coded in text box; it was also included as an attachment

[References from footnotes]

3 [Idquo]Forest Service Handbook 2709.11 - Special Uses Handbook;[rdquo] Chapter 80 [ndash] Operating Plans and Agreements for Powerline Facilities; Effective Date: February 10, 2022; p. 3; [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd1106567.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1106567.pdf) p [Agreements for Powerline Facilities; Effective Date: February 10, 2022; p. 3; [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd1106567.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1106567.pdf)

5 [Idquo]Forest Service Handbook 2709.11 - Special Uses Handbook;[rdquo] Chapter 80 [ndash] Operating Plans and Agreements for Powerline Facilities; Effective Date: February 10, 2022; p. 3; [https://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/fseprd1106567.pdf](https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd1106567.pdf) 6 Analysis of Threats on Lands Managed by the Forest Service and Bureau of Land Management report, June 2024 7 Sec. 512; FLPMA

12 [Idquo]Mature and Old-Growth Forests: Definition, Identification, and Initial Inventory on Lands Managed by the Forest Service and Bureau of Land Management in Fulfillment of Section 2(b) of Executive Order No. 14072[rdquo]; April 2024 (revised); p. 14; [https://www.fs.usda.gov/sites/default/files/fs\\_media/fs\\_document/Mature-and-Old-Growth-Forests.pdf](https://www.fs.usda.gov/sites/default/files/fs_media/fs_document/Mature-and-Old-Growth-Forests.pdf)

17 [Idquo]ON FIRE: The Report of the Wildland Fire Mitigation and Management Commission;[rdquo] September 2023; p. 16; <https://www.usda.gov/sites/default/files/documents/wfmmc-final-report-09-2023.pdf>

18 43 U.S.C. 1772(i)