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Comments: April 2, 2020

Objection Reviewing Officer

USDA Forest Service, Intermountain Region

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Ogden UT, 84401

Submitted electronically to: objections-intermtn-regional-office@fs.fed.us

Re: Huckleberry Landscape Restoration Project, Council Ranger District, Payette National

Forest

Responsible Official: Linda Jackson, Forest Supervisor

WildEarth Guardians submits the following objection to the U.S. Forest Service's Draft Record of Decision (hereafter, "Draft Decision"), to implement a modified Alternative 2 as analyzed in the Final Environmental Impact Statement (FEIS) completed under the National Environmental Policy Act (NEPA) for the Huckleberry Landscape Restoration Project (hereafter, "project") located on the Council Ranger District of the Payette National Forest. The landscape restoration proposal includes timber harvest, thinning, prescribed burning, road management, and motorized recreation designations within the 67,000 acre project area. We submitted timely input on the scope of the project, (hereafter, "scoping comments"), and the Draft Environmental Impact statement (hereafter, "draft comments") that we incorporate by reference.

As required by 36 C.F.R. [sect] 218.8(d), the lead objector's name, address, telephone number and email address:

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#### I. Interest and participation of WildEarth Guardians.

WildEarth Guardians is a nonprofit conservation organization with offices in seven states.

WildEarth Guardians has more than 278,923 members and supporters across the United States and the world. Guardians' mission is to protect and restore wildlife, wild places, wild rivers, and the health of the American West. For many years, WildEarth Guardians has advocated that the Forest Service maintain a balance between access, risks and costs when addressing its road system. Thoughtful management of the agency's road system and its associated impacts can improve the health of watersheds and wildlife on the Payette National Forest.

Guardians submitted timely scoping comments in November of 2016 and on the draft EIS in July of 2018. WildEarth Guardians has organizational interests in the proper and lawful management of the forest road system and its associated impacts on the Payette National Forest's wildlife and wild places.

#### II. We support the Forest Service's efforts that move the project area closer to a resilient future road network.

Identifying a resilient future road network is one of the most important endeavors the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, ensure reliable access, and operate within budgetary constraints. And it is a win-win-win approach: (1) it's a win for the Forest Service's budget, closing the gap between large maintenance needs and drastically declining funding through congressional appropriations; (2) it's a win for wildlife and natural resources because it reduces negative impacts from the forest road system; and (3) it's a win for the public because removing unneeded roads from the landscape allows the agency to focus its limited resources on the roads we all use, improving public access across the forest and helping ensure roads withstand strong storms.

We are very encouraged to see the Forest Service considering the Payette National Forest Council Ranger District's road system on a watershed scale. We strongly support the agency's thoughtful, strategic approach to improving public access to the forest, reducing negative impacts from forest roads to water quality and aquatic habitats, and improving watersheds and ecological integrity by returning expensive, deteriorating, and seldom used forest roads to the wild.

We strongly support the agency's decision to decommission 49.1 miles of forest system roads and 123.4 miles of unauthorized roads, in addition to 8 aquatic organism passages.<sup>1</sup> These are positive actions that should improve water quality, stream function, and allow for natural fish migration.

<sup>1</sup> Draft Decision, p. 6, Table ROD-1. Summary of activities to be implemented under this decision.

Though we support these actions, more road decommissioning is necessary to truly achieve a sustainable transportation system in the project area, one that will ensure properly functioning watersheds and protect riparian habitats.

III. The Forest Service failed to identify a minimum road system (hereafter, "MRS") and unneeded roads in compliance with 36 C.F.R. 212.5(b) (hereafter, "Subpart A") and NEPA.

We acknowledge and appreciate the Forest Service actions to identify a MRS for the project area in an effort to comply with Subpart A2 and recognize "[o]verall, Alternative 2 does the most to move all project-area subwatersheds furthest toward desired conditions in the Forest Plan " compared to the other alternatives.<sup>3</sup> Further, we applaud and support the agency's decision to decommission 49.1 miles of NFS roads, and another 123.4 miles of unauthorized roads.<sup>4</sup> We agree road decommissioning will improve watershed conditions and aquatic habitat.<sup>5</sup> Such improvements are not in question, rather we object to the assertion that the identified MRS for the project area does indeed provide for the protection of Forest Service System lands and reflects long term funding expectations as Subpart A requires. In other words, merely improving conditions is not sufficient to meet regulatory requirements. The Draft Decision could have included just 5 miles of road decommissioning and claim the project improved conditions. Identification of a minimum road system does not rest on

improving conditions, rather it must rely on measurable outcomes that demonstrate the road system is providing for the sustainability of the planning area's ecological integrity. Further, the Forest Service must also demonstrate how retaining 235.2 miles of road in the planning area represents a road system that reflects long-term funding expectations. On both counts the Forest Service failed.

A. The MRS determination for the project area fails to reflect long term funding expectations.

Subpart A requires the Forest Service identify a MRS that "reflects long-term funding expectations."

6 Our draft comments asked the agency to disclose its capacity to perform necessary road maintenance, and, in doing so, consider its deferred maintenance backlog that has accumulated from past years. We explained that

"...while the analysis provided annual maintenance costs for each ML, the discussion did not explain the PNF's capacity to perform this maintenance. In other words, what are the current and projected funding levels

2 Id. , p. 5, 6-7, Table ROD-1. Summary of activities to be implemented under this decision. (The table displays the

minimum road system for NFS road is 235.2 miles.

3 FEIS, p. 268.

4 Draft Decision, p. 6-7, Table ROD-1. Summary of activities to be implemented under this decision.

5 Id., p. 4, (stating, "[r]oad and watershed treatments will improve the watershed condition in all subwatersheds through decommissioning of system roads and unauthorized routes while improving over 76 miles of aquatic habitat

through Riparian Conservation Areas (RCA) road decommissioning, RCA road graveling, and culvert replacement

for aquatic organism passage (AOP). ").

6 36 C.F.R. 212.5(b)(1)

to meet these annual costs? Does the PNF have enough CMRD funding to perform annual maintenance or do forest officials expect the deferred maintenance backlog to increase. Ultimately this discussion is necessary to demonstrate how the MRS identified under the proposed action will reflect long-term funding expectations

required under the TMR Subpart A. Unfortunately, the Forest Service acknowledges "[r]oad maintenance cost savings realized through the reduction of NFSR mileage is negligible across alternatives, 4% reduction for Alternative 2 and 2% increase for Alternative 3,"<sup>7</sup>

In response, the Forest Service states that it does not track deferred road maintenance, and asserts that " [d]eferred maintenance backlog is not a significant issue to address for effects ."<sup>8</sup> Yet, in apparent contradiction, the Forest Service states many roads it proposes for decommissioning are closed to the public and "have erosion issues due to lack of maintenance."<sup>9</sup> We question how much the deferred maintenance backlog contributes to those erosion issues and the resulting amounts of sedimentation affecting water quality and fish habitat. The Forest Service failed to properly address this comment or adequately disclose the harmful environmental consequences from its deferred maintenance backlog.

Further, we asked the Forest Service to reveal how many roads in the project area would still not achieve their Road Management Objectives and objective maintenance level after project implementation.<sup>10</sup> In response, the agency stated " RMO's and OBML's are subject to change based on management direction and current conditions. Roads used for vegetation management will be brought to a level sufficient for safe and efficient haul while providing for required resource protection. "<sup>11</sup> The Forest Service response is inadequate as it fails to actually provide the miles of roads within the project area that will still not meet its RMOs, and it begs the question of how many RMOs the agency plans to change as a result of the project. While RMOs and objective maintenance levels may change, that does not alter the fact that they were established for good reason. Specifically, the Forest Service Manual provides the following direction:

Operate and maintain NFS roads in a manner that meets road management objectives (RMOs) and provides for:

1. Safe and efficient travel;
2. Access for the administration, utilization, and protection of NFS lands; and
3. Protection of the environment, adjacent resources, and public investment.<sup>12</sup>

7 Draft Comments, p. 3.

8 FEIS Appendix 8, p. 5.

9 FEIS, p. 258.

10 Draft Comments, p. 3.

11 FEIS Vol. 2 Appendix 8, p. 5.

12 FSM 7730.2

Note, Subpart A also directs that the identified MRS will provide for the protection of NFS lands.

As such, regardless of whether or not RMOs may change, the Forest Service should still have provided the miles of road in the project area that will not meet their RMOs. " The objective maintenance level is the maintenance level to be assigned at a future date considering future road management objectives, traffic needs, budget constraints, and environmental concerns ."13 Therefore, it makes sense for road maintenance activities associated with the project will actually result in meeting objective maintenance levels. The fact that the Forest Service failed to specify the amount of miles and the number of roads that still will not meet its RMOs and objective maintenance levels after project implementation suggests that the identified MRS does not meet long term funding expectations. Further, the Forest Service response focuses on roads utilized for vegetation management and ignores the ongoing maintenance needs for the remainder of the 235.2 miles of the identified MRS that will not receive treatments to address degraded road conditions. The Draft Decision claims, " [r]oads that are recommended to remain on the landscape as part of the MRS would be maintained and/or improved to reduce sediment production (guided by recommendations from field surveys and sediment modeling) ."14 Yet, it is apparent that the Forest Service lacks adequate funding to meet the decision's direction,

" Reductions in the Forest's CMRD budget and other funding sources over the past decade have resulted in reduced road maintenance in the analysis area. Most public road agencies including county, state, and FS are never fully funded to maintain their entire road system and maintenance is prioritized on need and use ."15

In fact, the agency discloses that under the selected alternative, there would be a \$140,641 Total Annualized Deferred Maintenance Cost in addition to the \$80,536 Total Annual Maintenance Cost.

16 What the Forest Service fails to disclose is the miles of road that need treatment to address resource concerns, how many of those miles will receive treatment under the selected alternative, the Forest Service's capacity to treat those roads not utilized for vegetative treatments, and how many will remain untreated due to lack of funding.

Suggested Resolution: Identify a minimum road system that reflects long term funding expectations.

B. The identified minimum road system fails to provide for the protection of NFS lands

Merely reducing harmful environmental effects from an under maintained and degraded road system does not result in a system that actually provides for the protection of NFS lands. A system that does not reflect long-term funding expectations equates to a system that will degrade and harm forest resources in the future. This is especially important since the Forest Service responds to our comment asking the agency to rank risks and benefits for each road by asserting such action is

13 FSH 7709.59 Ch. 62.31

14 Draft Decision, p. 21.

15 FEIS, p. 397-8.

16 Id ., p. 398, Table 3.11-3.

unnecessary, in part, because " [m]itigations such as graveling, will also be used to deal with roads that are known to have higher risks (i.e. roads within RCAs) but are determined to be needed for future Forest management ."

17 If the agency does not have the ability to mitigate resource concerns, especially for roads not proposed for use to implement vegetative treatments, then it cannot reasonably assert the identified MRS provides for the protection of NFS lands.

Further, as we stated earlier, simply improving conditions does not satisfy Subpart A requirements.

Case in point, the Forest Service states that " [w]ith respect to Forest Plan Appendix B, all subwatersheds

with road densities above 1.7 miles per square mile are considered FUR ... The subwatersheds in the analysis are all

considered FUR for road density and location. "18 The Draft Decision's selected alternative will not improve the indicator rankings, meaning they will continue to function at unacceptable risk.19 Our previous comments urged the Forest Service to decommission more roads, and at the very least identify how many miles of road would need decommissioning to move the watershed indicators to functioning at risk and functioning appropriately.20 We also urged the agency to disclose the amount of decommissioning necessary to move watershed condition class scores to a better ranking under the Watershed Condition Framework. The FEIS does not disclose the amount of decommissioning necessary to achieve properly functioning watersheds. Rather, the agency responds by acknowledging " [i]mplementation of the Huckleberry Project including the road decommissioning will improve the associated WCF indicators but will not be enough to achieve a bump up in category. "21

Indeed, rather than increase road decommissioning and foregoing adding unauthorized roads to the system as we urged in our comments, the Forest Service actually did the opposite explaining:

As part of the collaborative process with the PFC and through comments received during scoping, it was requested that the Forest Service identify possible recreational motorized loop opportunities on system roads and unauthorized routes that were being proposed for decommissioning.22

Specifically, the Draft Decision directs the following:

? NFS Road 50646 - Seasonal instead of decommissioning;

? NFS Road 50639 - Seasonal for the entire road instead of decommissioning in part and do not construct proposed 50639 reroute;

? Add unauthorized routes 505715000 and 507594000 to the NFS system and make Seasonal;23

17 FEIS Vol. 2, Appendix 8, p. 2.

18 FEIS, p. 247, 242.

19 Id., p. 268, Table 3.5-8 (displaying road densities for each subwatershed, all of which are above 1.7 mi/mi<sup>2</sup> )

20 Draft Comments, p. 8.



21 FEIS Vol 2. Appendix 8, p. 13

22 Id. , p. 18.

23 Draft Decision, p. 5.

We strongly object to the Forest Service adding unauthorized roads and retaining those recommended for decommissioning in order to meet an unquantifiable and seemingly insatiable desire for motorized recreation. Fulfilling the interests of off-road vehicle proponents should not come at the expense of the forest's ecological integrity. This is especially true given the fact that "[u]nauthorized motorized use occurs frequently on seasonally closed roads, roads closed on a year-round basis, and on unauthorized routes, including new routes created by motorized users."<sup>24</sup>

The Forest Service should not be adding roads to the system or expanding motorized designations while it is unable to enforce its Motor Vehicle Use Map.

It is clear that the Forest Service should have included more, not less, road decommissioning in its Draft Decision in order to provide for the protection of NFS lands. Further evidence of this is in regards to Riparian Conservation Areas, which has no Forest Plan Watershed Condition Indicator suggesting there is also no corresponding desired condition for the agency to meet. An important fact since "... evidence of roads impeding RCA function is apparent throughout the project area ."<sup>25</sup> We commented that the Forest Service should at the very least decommission enough roads to bring the RCAs into the Functioning at Risk WCI ranking.<sup>26</sup> In response, the Forest Service asserts, "[i]ncluding enough RCA road decommissioning to achieve FR in the Road Density/Location WCI would not address the Huckleberry Landscape Restoration Project purpose and need, the TAR, or the Forest Plan emphasis on active management in these subwatersheds ."<sup>27</sup> In other words, the agency is choosing to emphasize active management at the expense of improving riparian conditions, and doing so negates any claim that the identified MRS provides for the protection of NFS lands.

Suggested Resolution: Identify a minimum road system that actually provides for the protection of NFS lands as evidenced by increasing the WCF road and trail indicator to a "good" ranking, and a improving the WCI indicator ranking to functioning appropriately

for each subwatershed.

C. The Forest Service proposes to add newly discovered roads to the forest transportation system without public involvement or analysis under NEPA.

The Forest Service explained that it is currently processing Light Detection and Ranging (LIDAR) data, but the information was not available in time to inform the Draft Decision.<sup>28</sup> The agency explains,

<sup>24</sup> FEIS, p. 352.

<sup>25</sup> Id ., p. 248

<sup>26</sup> Draft Comments, p. 9.

<sup>27</sup> FEIS Vol 2. Appendix 8, p. 14

<sup>28</sup> Id ., p. 8.

" If during implementation it is determined that a newly discovered road of comparable length is better situated to achieve the intended road network, without additional resource impacts or significant mileage increase from that analyzed in the FEIS, then I expect the change to be identified, approved by the appropriate Line Officer, and the change and disposition of any previously identified road documented in the Project Record. Alternately, if a road is discovered in an area that no other road accesses and is determined to be needed for current management it should be reviewed through the travel analysis process by the interdisciplinary team (IDT) for future management. If determined to be needed for future management, it should be deferred from decommissioning until future analysis."<sup>29</sup>

The Forest Service did not explain this in the project DEIS, and as such we did not provide comment. Given the opportunity we would have explained our concerns. In particular, we would have urged the agency to defer its decision until it could consider the LIDAR data, analyze any newly discovered roads in order to properly inform the MRS determination and road decommissioning decisions. Such action is certainly necessary to properly analyze the risks and benefits of each newly discovered road, and establish the history of each.

As it stands, it appears that the Draft Decision allows the Line Officer to change the MRS determination without involving a "broad spectrum of interested and affected citizens."<sup>30</sup> It is unclear if the Draft Decision is directing adding the newly discovered roads to the transportation system, or utilizing them as temporary roads. In either scenario, the Forest Service does not provide the requisite analysis for either action. Given the Forest Service considers roads found in the LIDAR data to be "newly discovered," it is reasonable to expect these are unauthorized roads and likely either user-created, abandoned temporary roads, untreated decommissioned roads, or a mix of each. We strongly object to the Forest Service changing its MRS determination without the requisite public involvement, or using newly discovered roads and potentially adding them to the system without supporting analysis as doing so is a violation of NEPA. The Draft Decision provides unreasonable discretion to the Line Officer, specifically regarding what constitutes "additional resource impacts or significant mileage increase."

Further, it is unclear how the Forest Service will determine if a newly discovered road in an area with no other access is needed for current management. The Forest Service does not provide any criteria and again appears to rely entirely on the discretion of the Line Officer for such a determination. In an example of convoluted reasoning, the Draft Decision states the need for current management determination will precede review through the travel analysis process, which is precisely the tool necessary to inform such determinations. In addition, it is unclear what the decision is directing, and if roads not needed for current management will be decommissioned. Regardless, in any scenario the

29 Id.

30 See 36 C.F.R. 212.5(b)

Forest Service must recognize the "newly discovered" roads are not part of the transportation system, (otherwise they would have been included in the project's analysis), and as such they are unauthorized as we describe above. Therefore, "newly discovered" roads should receive effective treatments to fully remove them from the ground so they will not be "discovered" again at some point in the future. The fact that these roads remain supports the need for better removal of

temporary roads, more effective decommissioning treatments and/or enforcement of the Motor Vehicle Use Maps.

Suggested Resolution: Forestall the final project decision until proper analysis and consideration is complete for "newly discovered" roads identified in the LIDAR data, or at the very least, direct decommissioning any such road that remains as a result of unauthorized use, or failed treatment to remove temporary roads or decommission roads in past decisions.

#### Conclusion

WildEarth Guardians appreciates your consideration of the information and concerns addressed in this objection, as well as the information included in the attachments. Pursuant to 36 C.F.R. [sect] 218.11, we respectfully request to meet with the reviewing officer to discuss these concerns and suggested resolutions. Should you have any questions, please do not hesitate to contact us.

Sincerely,

Adam Rissien

WildEarth Guardians