

The following are my comments on the Eastside Project scoping information. They are brief because the information provided is also brief. Although you added GIS files to the website on May 19th, over a week after scoping, I was unable to download or view those files. You should extend the scoping comment period for 30 days after these materials are available for public review.

In a two-page scoping letter, you are proposing a landscape-scale project, covering an entire mountain range, using conditions-based analysis under a CE. NEPA requires federal agencies including the Forest Service to provide the public with “notice and an opportunity to be heard” in the analysis of “specific area[s] in which logging will take place and the harvesting methods to be used.” *Ohio Forestry Ass’n v. Sierra Club*, 523 U.S. 726, 72930 (1998). How is the public supposed to submit meaningful and substantive comments? There is almost no information except to implement vegetation treatments on the entire west side of the Sapphire Mountain Range. You state the treatments will:

- *Improve resilience to insect & disease and catastrophic wildfire in timber stands by modifying forest structures and composition, and fuel;*
- *Reduce fuel loading in those stands, thereby setting stands up for future use of prescribed fire on a rotational basis;*
- *Increase the mosaic nature of vegetative regrowth in previously burned areas (2000 and later);*
- *Improve the natural forage quality and quantity in high potential elk habitat and elk winter range;*
- *Reduce conifer encroachment in meadows and grasslands to improve habitat.*

This language is nearly identical to every commercial logging project BNF has proposed. There is nothing in this CE that prohibits commercial timber harvest, and no statement to that effect in the scoping letter. How do you propose to modify forest structure and “increase crown spacing” (from scoping letter) without commercial logging? When only non-commercial work was suggested for the Mud Creek Project that has similar goals, BNF responded that non-commercial work was inadequate to achieve those goals.

Please provide references and on-the-ground examples demonstrating that your proposed treatments, whatever they are, will likely be successful in improving resilience to insects, disease, and wildfire; improving forage quality and quantity; and improving habitat. Please demonstrate that such improvements are necessary for ecosystem health.

What methods will you use to “increase the mosaic in previously burned areas”?

Prescribed burning, a major focus of this project, is not a cure-all for forest ills (real and imagined), and will not necessarily return the forest to your imagined historic conditions. See the photos of the Como burns below. Will you use spring prescribed burning that was never a part of historic conditions? Please show that spring burning is not harmful to nesting birds or newly sprouted grasses and forbs, or soils. Please show that the loss of spring grasses and forbs due to spring burning will not increase conifer

encroachment in meadows. Below are a couple photos from the April 2021 Lake Como area prescribed burning, with comments. The necessity and benefits of these burns appear questionable.



Photo of south aspect in the Como spring burn (2021). The area was very open Ponderosa with a sparse understory of antelope bitterbrush, an important wildlife forage species. Bitterbrush does not tolerate low-intensity, frequent fire according to the scientific literature. I'm having a hard time understanding why fire was prescribed for this area.



Photo above shows a flat area of the Como prescribed burn that was first non-commercially thinned and then burned in April, 2021. Most of the leave trees were killed by the fire. Is this what you hope to achieve on the Eastside project?

Please give more details on the thinning that will happen. What is the maximum dbh limit for non-commercial thinning?

How was this area defined as a “priority landscape”? Support your designation of it as such.

There is nothing in the CE or scoping letter that precludes work in IRAs and WSAs.

How will you deal with old growth and its retention and promotion?

Your time line is defined as “several years”. Be more specific. It looks like this project will go on for decades, without any further review.

Of great concern is the allowance of “opening of an existing road to access a timber stand”. On past BNF projects, “existing roads” were often completely overgrown and naturally reclaimed, and their “reopening” was new road construction even though it was not counted by BNF as such. Therefore, it seems as though you will be allowed to do unlimited road construction along undetermined or ghost

roads. These roads can then be used for commercial timber harvest either on this project or future ones. How many miles of roads will you reopen? Which ones? Roads fragment and degrade wildlife habitat; they do not improve it.

What about the cumulative effects of ongoing (Gold Butterfly, DLL2) and future projects in the area? Please analyze cumulative effects.

How did/will you determine there are no extraordinary circumstances? The CE states the following factors must be considered in determining extraordinary circumstances:

- 1. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species*
- 2. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas*
- 3. Inventoried roadless area or potential wilderness area*
- 4. American Indians and Alaska Native religious or cultural sites*
- 5. Archaeological sites, or historic properties or area*

The Eastside project includes all of the above. In particular, it includes bull trout streams, potential grizzly bears and their connectivity habitat, wolverines, boreal toads, lynx, whitebark pine, and numerous FS sensitive species. USFWS is currently undertaking a multi-year DNA sampling search for grizzlies throughout the Sapphire Range, which suggests your map of areas where “grizzlies may exist” is incomplete. The Eastside project area includes IRAs, WSAs, Research Natural Areas, and potential wilderness areas. I know of at least one important American Indian site. You must demonstrate that the project will not adversely affect any of these before it can proceed as a CE.

Concerning #1 above, conditions-based analysis also creates compliance challenges under the Endangered Species Act (ESA). Section 7(a)(2) of the ESA requires federal agencies to consult with the Fish and Wildlife Service whenever a proposed action “may affect” listed species or destroy or adversely modify its critical habitat to ensure that the action is “not likely to jeopardize” these species. 16 U.S.C. § 1536. Conditions-based analysis conflicts with that statutory requirement because it does not allow agencies to properly determine whether an action “may affect” or is “likely to jeopardize” a listed species when the consulting agencies do not know the specifics of when or where the action will be implemented, or what the site-specific impacts of the action may be.

The CE you are proposing to use also states: *If the [responsible official](#) determines, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an EA. If the [responsible official](#) determines, based on scoping, that the proposed action may have a significant environmental effect, prepare an EIS.*

Because, using conditions-based analysis, you cannot determine whether your proposed action will have a significant effect on the environment, you must prepare an EA or an EIS.