Data Submitted (UTC 11): 7/12/2019 11:00:00 AM
First name: Doug
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Title:
Comments: FROM: Doug Heiken, Oregon Wild, PO Box 11648, Eugene OR 97440, 541-344-0675

TO: PNW Objection Reviewing Officer

VIA: objections-pnw-regional-office@fs.fed.us

DATE: 12 July 2019

Subject: 36 CFR 218 objection of the Rattlesnake HFRA Project

Dear Forest Service:

In accordance with 36 CFR 218, Oregon Wild hereby objects to the project described below.

DOCUMENT TITLE:

Draft Decision Notice Finding of No Significant Impact And Forest Plan Amendment For the Rattlesnake Hazardous Fuel Reduction Project

PROJECT DESCRIPTION:

Commercial Thin 20 Grand Fir up to 30" - 158 acres

Commercial Thin 30 Grand Fir up to 30" - 1,666 acres

Commercial Thin 40 Grand Fir up to 30" - 1,918 acres

Commercial Thin 30 - 416 acres

Commercial Thin 40 - 209 acres

Commercial Thin 50 - 1,320 acres

LOS Treatment - 818 acres

Fuel Reduction Biomass Thin - 3,494 acres

Aspen Treatments - 924 acres

Conifer Encroachment Treatment - 1,815 acres

Riparian Habitat Conservation Area Treatments - 280 acres

Mahogany Treatment - 703 acres

Plantation Thinning - 131 acres

Eagle Roost Thinning - 273 Acres

PROJECT LOCATION:

Malheur National Forest, Emigrant Creek Ranger District Harney County, Oregon

DATE OF NEPA DOCUMENT:

draft DN dated 6-12-2019

NAME OF FEDERAL OFFICIAL PROPONENT:

CRAIG P. TRULOCK DATE Acting Forest Supervisor Malheur National Forest

LEAD OBJECTOR: Oregon Wild

NARRATIVE DESCRIPTION OF THOSE ASPECTS OF THE PROPOSED AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECT ADDRESSED BY THE OBJECTION:

We object to the plan amendment allowing removal of large trees.

SUGGESTED REMEDIES THAT WOULD RESOLVE THE OBJECTION:

Oregon Wild respectfully requests that the Forest Service withdraw the recommended project and [mdash]

1. Provide a public comment opportunity on the EA;

2. Issue a clear decision that follows the LRMP as amended by the Eastside Screens and retains all (non-hazardous) large trees >21" dbh; or

3. Prepare a new EIS to address the significant impacts and unresolved conflicts and fully complies with the requirements of NEPA and the CEQ regulations and addresses the specific concerns expressed below.

SPECIFIC ISSUES RELATED TO THE PROPOSED AUTHORIZED HAZARDOUS FUEL REDUCTION PROJECT:

Failure to provide an opportunity to comment on the Environmental Assessment.

The FS provided an opportunity for scoping comments, then issued an EA and draft DN without an opportunity for informed public comment on an EA. 36 CFR [sect][sect] 218.22, 218.24, requires the FS to provide an opportunity to comment on Environmental Assessments. The FS violated that requirement here.

Providing the sole public comment opportunity during the scoping period is inconsistent with the letter and spirit of NEPA. 40 CFR [sect] 1500.1 (b) says "NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." In this case the public was never given an opportunity to provide comments informed by an EA.

Scoping alone is an inadequate opportunity to comment on an HFRA project because scoping notices provide

too little information to provide informed, site-specific public comments.

The typical NEPA process involves comments during scoping and after the draft EA is prepared. When drafting scoping comments, the public expects a subsequent opportunity to provide comment on the EA so they often do not put all of their detailed concerns in the scoping comments.

The Forest Service exceeded its authority under HFRA by amending the LRMP.

This project involves a plan amendment allowing removal of large trees. This is improper for two reasons. First, because projects using HFRA authorities are required to follow the requirements of the LRMP. This HFRA language is rendered meaningless if the Forest Service can just do project-specific plan amendments.

Second, HFRA requires the FS to "implement the management direction" with respect to old growth restoration. The purpose and need in the 1995 Revised EA for the Eastside Screens says: "there is a need to review the balance of timber harvest for forest health and fuels reduction with the need to maintain abundance and distribution of old-forest structure. [hellip] the primary purpose is to conserve those components of the landscape [mdash] old forest abundance, wildlife habitat in Late and Old structural stages [hellip]" The 1995 Regional Foresters Amendment #2 is the "management direction" referred to in HFRA [sect] 102(e), therefore the diameter limits in the Eastside Screens are mandatory per HFRA [sect] 102(e)(3).

The legislative history of the Healthy Forest Restoration Act makes clear that plan amendments are allowed only as part of a separate planning process but were not contemplated as part of project level decision-making under HFRA. See House Report 108-096 - Part 1 - HEALTHY FORESTS RESTORATION ACT OF 2003.

"All hazardous fuels reduction projects must be conducted in a manner that is consistent with the land and resource management plan [hellip] LRMPs need to be examined periodically to ensure management assumptions and guidance is correct, and new scientific information becomes available. The primary process for ensuring that planning direction is kept current is the amendment process. [hellip] The Forest Supervisor shall review the conditions on the land covered by the plan at least every 5 years to determine whether conditions or demands of the public have changed significantly. All amendments and revisions are subject to public notice and comment, environmental review under the National Environmental Policy Act, and administrative appeal." (emphasis added).

The FS must recognize that in order to adopt any valid plan amendments, the FS must conduct full NEPA and issue an appealable decision on the plan amendment. This must happen before the objection process so that HFRA Section 102(b) can be met ("An authorized hazardous fuel reduction project shall be conducted consistent with the resource management plan [hellip]."

HFRA represents a compromise where the FS is allowed to take certain NEPA short-cuts in exchange for limiting the scope of their actions (e.g., protecting old growth and following the forest plan). This compromise is violated if the FS does project-specific plan amendments.

Sincerely,

/s/

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