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Title: Pacific NW Conservation Manager
Comments: August 18, 2021

Hilary Krieger

NEPA Planner

Middle Fork Ranger District

46375 Highway 58

Westfir, OR 97492

Re: Youngs Rock Rigdon Project - DEIS

Dear Ms. Krieger and District Ranger Juillerat,

WildEarth Guardians respectfully submits these comments to the U.S. Forest Service in response to the agency's draft Environmental Impact Statement (DEIS) for the proposed Youngs Rock Rigdon Project. The project includes a broad swath of actions that aim to improve desired conditions. Actions from the preferred alternative include:

- * 2,608 acres of commercial harvest including variable thinning and regeneration harvest;
- * 1,687 acres of non-commercial harvest including creation of gaps, skips, pine releases along roadsides and fuel treatments;
- * 127 miles of road treated and an additional 10 miles of new temporary road spurs constructed and decommissioned; 4 miles of non-system road beds improved & decommissioned;
- * 47 miles of system roads closed and stored and 12 miles of road decommissioned;
- * 1,228 acres hazardous understory treated to reduce fuels;
- * 695 acres of floodplain/riparian reserves activities plus 273 acres commercial thinning in riparian reserves and 200 acres of drop and leave;
- * 276 acres of meadow restored; and
- * various recreation-related actions including re-routing trails, building bridges, decommissioning dispersed recreation sites.

The project area is approximately 33,000 acres and is located 15 miles southeast of Oakridge, OR. It is located in the Upper Middle Fork Willamette Watershed and within the Buck Creek and Echo Creek subwatersheds. Both of these subwatersheds are [ldquo]functioning at risk[rdquo] according to the Watershed Condition Framework. In particular, the indicators for [ldquo]aquatic biota[rdquo] and [ldquo]roads and trails[rdquo] are rated as [ldquo]poor[rdquo], thus factors impacting the health of these watersheds [ndash] specifically related to aquatics - should be addressed.

The stated purposes of the project are the following:

- * [ldquo]improve stand and landscape diversity, structure, and resiliency;
- * strategically reduce hazardous fuels;
- * sustainably manage existing trail system and dispersed recreation while minimizing impacts to natural resources;
- * identify a sustainable road system needed for safe and efficient travel and for administration, utilization and protection of National Forest System Lands; and
- * provide a sustainable supply of Forest Products.[rdquo] (Willamette National Forest, Youngs Rock Rigdon, Draft Environmental Impact Statement (DEIS), July 2021, p. 1).

WildEarth Guardians is a nonprofit conservation organization with offices in Washington, Oregon and five other states. WildEarth Guardians has more than 190,000 members and supporters across the United States and works to protect and restore wildlife, wild places, wild rivers, and the health of the American West. WildEarth Guardians and its members have specific interests in the health and resilience of public lands and waterways. We provided comments during scoping related to this project and our organizational interests.

We are pleased to see the Willamette National Forest continue its efforts in the Middle Fork Ranger District to move towards a more [ldquo]sustainable road system[rdquo] by using updated information, field verification and the forest-wide Sustainable Roads Strategy. As noted in the DEIS (p. 120) [ldquo]roads continue to be the largest source of human-caused sedimentation in the project area[rdquo] and offer the greatest opportunity to improve water quality and aquatic habitat. Changing climate, changing hydrologic conditions, recovery efforts for ESA-listed Upper Willamette spring Chinook salmon and bull trout and waterways that do not meet Clean Water Act standards are all key reasons to reduce or nearly eliminate the human-caused sedimentation in the area. Identifying the minimum road system is an important next step in moving forward with Subpart A of the Travel Management Rule and making real improvements on the ground and in rivers/streams.

Our comments are focused on the project components that attempt to address water, watersheds, fish and forest resiliency by road-related actions and ask that you consider the following:

1. Clarify that the Forest Service is applying the 1978 CEQ NEPA regulations.

Last year, the Council on Environmental Quality (“CEQ”) revised its regulations implementing

NEPA. 85 Fed. Reg. 43,304 (July 16, 2020) (codified at 40 C.F.R. Part 1500). Here, the Forest

Service does not clearly indicate which version of the CEQ NEPA regulations it is applying to this analysis (previous, 1978 rules, or 2020 rules). Because the NEPA process for this project started before Sept. 14, 2020, the Forest Service should exercise its discretion to apply long-standing, pre-2020 NEPA regulations and policy. 40 C.F.R. [sect] 1506.13 (2020) (giving discretion to agencies regarding effective date for ongoing NEPA processes). The 1978 regulations codified early judicial opinions based on language of the statute, provided the basis for a substantial body of judicial precedent spanning over four decades, and have formed the foundation for more specific regulations and policies enacted by individual agencies to implement their particular missions. See, e.g., 36 C.F.R. Part 220 (2008), Forest Service Manual 1950, and Forest Service Handbook 1909.15.

The 2020 CEQ revised rules upend virtually every aspect of NEPA and its longstanding practice, contradict decades of court interpretations of NEPA’s mandates, and undercut the reliance placed on NEPA by the public, decision-makers, and project proponents. It does so by limiting the scope of actions to which NEPA applies, eviscerating the thorough environmental analysis that lies at the heart of the statute, reducing the ability of the public to participate in federal agency decision-making, and seeking to limit review of agency NEPA compliance. The legality of the final rule is being challenged in a number of federal lawsuits brought by organizations that rely on NEPA to protect their varied interests in human health and the environment. See *Alaska Community Action on Toxics v. CEQ*, No. 3:20-cv-05199 (N.D. Cal. July 19, 2020); see also *Wild Virginia v. CEQ*, No. 3:20-cv-00045-NKM (W.D. Va. July 29, 2020); *Environmental Justice Health Alliance v. CEQ*, No. 1:20-cv-06143 (S.D.N.Y. Aug. 6, 2020).

Given the highly uncertain fate of the CEQ’s 2020 rules [ndash] including pending legal challenges and the change in administration [ndash] the Forest Service would be wise not to jeopardize or delay ongoing decision-making processes by injecting additional and unnecessary uncertainty. In short, continuing to apply the CEQ’s 1978 regulations is the path to greater certainty, given the agency’s clear discretion to do so with respect to this process, which was initiated before September 14, 2020. We urge the Forest Service to clearly indicate in the DEIS that it is applying the pre-2020 NEPA rules.

1.

The Forest Service did not consider a broad range of alternatives under NEPA.

The Youngs Rock Ridgon project DEIS has analyzed 3 alternatives: no action, preferred action and a third alternative. Though we appreciate that the agency attempted to address some of the key issues identified during the scoping period in the alternatives analyzed, the range is only minimally different and not broad. For example, one key issue is “road management” particularly related to resource risk, water quality and how more road decommissioning could result in truly improved watershed conditions (DEIS, p. 27). However the difference between road-related actions between the two alternatives is 47 vs. 41 miles stored and 12 vs. 20 miles decommissioned with Alternative 2 (Forest Service preferred) and Alternative 3, respectively (DEIS, p. 17). Cost savings with roads [ndash] an important factor in identifying the minimum road system [ndash] is only a minimal difference of \$31,672 (Alternative 2) vs. \$32,776 (Alternative 3) (DEIS, p. 279). Also road density differences are

negligible. A thorough analysis under NEPA would include a broader array of alternatives that truly lead to differences in the project area.

1. We support the Forest Service's proposed actions that improve aquatic conditions and feel that more could be done to ensure goals are met.

As we noted with our scoping comments, the Forest Service was created, in part, to protect our Nation's water supply. This duty is increasingly important in the age of drought, climate change, and with the dwindling population counts of Endangered Species Act (ESA) listed species, such as Upper Willamette River spring Chinook salmon. We understand that a series of dams inhibit free movement of Chinook salmon but the operators (U.S. Army Corps of Engineers) are now under a Court order to take immediate actions to protect these species. This could potentially involve deep drawdowns and/or spill operations to prioritize fish at Lookout Point and Dexter dams as soon as 2022 and drawdowns at Fall Creek Reservoir in 2021. In addition, the Dexter adult fish facility will be improved which may lead to additional adult fish upstream of the dams.^[1] At the time that this DEIS was written, there may not have been a plan for volitional passage of fishes through the dams but the current court order specifically outlines actions that will provide volitional passage (DEIS, p. 142). NEPA analysis for this project area will not be revisited in a year or two so it is in the agency's best interest to be forward thinking and plan to support these actions. We are fully aware that the Forest Service does not have any influence over dam operations but the agency does have direct responsibility to improve water and aquatic habitat conditions. Chinook salmon are already being trapped and hauled to areas above the dams (DEIS, p. 121). It is critically important for the Forest Service to fully contribute to the survival and recovery of these threatened species, as well as ESA listed bull trout and the other 13 native fish species in the project area (DEIS, p. 123). Additionally, this area is identified to be critical habitat for Chinook salmon. Our comments specifically:

* [Reduce aquatic risk] should have been included as a project purpose. It could have easily been included as part of the trail-related purpose and [sustainable road system] purpose.

* We support the floodplain work, dispersed campsite management and trail rerouting outlined for the project area (DEIS, p. 137). Closing dispersed campsites near the river and re-routing the trail in key locations are especially helpful to protect the trail and camping into the future (DEIS, p. 259). This is more sustainable in the long run, especially as hydrologic conditions change. Compacted areas, created by mismanaged camping, need to be decompacted and restored to improve hydrologic conditions. In addition, the Forest Service needs to monitor for unauthorized use in these areas in order to ensure aquatic benefits can be fully realized by the treatments. If any intrusions are identified, then additional measures should be immediately implemented to eliminate further incursions and prevent further damage.

* Several stream segments are impaired under the Clean Water Act and are on the 303d list for temperature (DEIS, p. 120). Cold water is already a critical need for salmon survival and is only getting increasingly critical. It is unclear whether the specific road actions and proposed riparian actions will actually result in reduced water temperatures that meet Clean Water Act standards and retain the cold temperatures that salmon need for survival.

* As we asked in our scoping comments, are the aquatic risks identified with ALL the roads in this project area addressed with these road-related actions? If so, how specifically? We read through the Aggregate Recovery Percentages but this did not outline how much sediment would be reduced by the project actions. And, as noted in the DEIS, [road maintenance and haul does impact water quality and listed species] (DEIS, Table

24, p. 126) yet how this impact is minimized over the long-term is less straight forward. GRAIP [ndash] a USFS tool and one we mentioned in our scoping comments - could have been used to more adequately determine the sediment impacts during and post project as well as to compare sediment differences between alternatives.

* We appreciate the effort made to limit temporary roads. Even though there are precautions in place (DEIS, p. 130), duration of the [ldquo]temporary roads[rdquo] across the landscape is a key factor. How many first fall heavy rain events will occur while the temporary roadbeds are in place?

* We also acknowledge the caution around harvesting in riparian reserves and the effort to harvest at a distance from critical habitat (DEIS, p.129), yet we still question whether the activity is as low impact as proclaimed.

* The Forest Service failed to incorporate climate change vulnerabilities, which should be a significant factor in the analysis [ndash] especially in the aquatics context. The Willamette National Forest does have a climate vulnerability report and it could have simply been incorporated into the DEIS to further refine project actions.

We support Alternative 3 over the preferred alternative given that there is slightly more possibility of benefits for aquatic health. Alternative 3 has slightly fewer temporary roads (7 miles vs. 10) and more roads decommissioned (20 vs. 12), greater connectivity between wetland areas & uplands & riparian areas, yet maintains the same number of miles open to public access (120 miles) as Alternative 2. We are encouraging the agency to do more road decommissioning over storage because road decommissioning, if done properly, has been shown to be better for aquatics. Miller et al. (2017) showed that in 20 years of monitoring forests managed by the Northwest Forest Plan there were measurable improvements in watershed conditions as a result of road decommissioning, finding [ldquo]...the decommissioning of roads in riparian areas has multiple benefits, including improving the riparian scores directly and typically the sedimentation scores.[rdquo] [2] Studies have also demonstrated that decommissioning forest roads (assuming it[rsquo]s done correctly) should result in a net positive as documented below:

* hydrologic recovery is speedier. Lloyd et. al. (2013)[3] discovered that when a road is recountoured and the surface is adequately treated, rainwater infiltrates quicker than when a road is simply abandoned. (Above ground recovery is about the same but below ground is very different.) Kolka & Smidt (2004)[4] also discovered that there is less erosion/runoff on treated roads.

* reduced sediment delivery to streams. Nelson et. al. (2012)[5] compared sediment delivery rates on decommissioned roads and stormproofed roads. After storms, the decommissioned roads had 80% less sediment delivery while stormproofed roads had 67% less sediment delivery.

*

results in higher watershed condition scores. An Aquatic Conservation Strategy analysis completed in 2006 showed that the watersheds that had condition scores that increased the most were the ones that had the most extensive road decommissioning.

There are multiple activities proposed with this project such as temporary roads, riparian harvest, commercial harvest, haul, road maintenance and more that all contribute sediment to waterways and fish habitat. Further, it is feasible that all of these sediment-producing activities could occur at the same time, which would greatly increase sediment delivery to streams and critical habitat, thus harming ESA-listed fish. We encourage the agency to not simply rely on [ldquo]Best Management Practices[rdquo] as project activities move forward, but to actively prioritize water quality by removing or adjusting actions with this goal at the forefront: to measurably improve aquatic health.

1. The Youngs Rock Rigdon Project DEIS fell short in meeting the stated purpose of Subpart A of the Travel Management Rule.

As we stated in our scoping comments, we appreciate the efforts made to analyze the specific road system in the Youngs Rock Rigdon project area, incorporate the Sustainable Roads Strategy and move forward with Subpart A of the Travel Management Rule, which includes identifying the minimum road system. The minimum road system is to:

- * [ldquo]meet resource and other management objectives adopted in the relevant land and resource management plan[rdquo];
- * [ldquo]meet applicable statutory and regulatory requirements[rdquo];
- * [ldquo]reflect long-term funding expectations[rdquo]; and
- * [ldquo]ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.[rdquo] 36 C.F.R. [sect]212.5(b)(1).

The DEIS did include roads as one of the project purposes but limited that goal: [ldquo]for safe and efficient travel and for administration, utilization and protection of National Forest System Lands[rdquo] (DEIS, p. 1). This implies that the road goals are purely for access and management but then fail to [ldquo]reflect long-term funding expectations[rdquo] or [ldquo]minimize adverse environmental impacts[rdquo]. As we asked in our scoping comments [ndash] will the agency be able to maintain the 120 miles of system roads remaining post-project with your long-term budget expectations? The DEIS notes that many roads in this area are already inaccessible due to poor road surface, some are already closed and most users only use the mainline road #2100 (DEIS, p. 120, 260, 275). Were the two alternatives proposed really the only options considered to ensure a future road system that is within budget constraints? This was not thoroughly explained. Unless budgets are significantly increased, we will lose more roads due to neglect and storms than to any other action. It[rsquo]s imperative that the Forest Service continue to identify key roads (specifically recreation roads) for key investments as well as unneeded roads that can be removed from the system to truly become more economically sustainable.

Road densities currently are 3.6 miles/square mile with post-project densities estimated to be 2.6 miles/square mile (DEIS, p. 121). This assumes that [ldquo]stored roads[rdquo] are not included in the density calculation. Currently none of the [ldquo]big game emphasis areas[rdquo] meet the desired goals of open road density for elk yet even after action, the road densities remain above the desired goals (DEIS p. 196-198). Extensive studies show that wildlife (particularly elk, bear, lynx) avoid roads. Switalski et. al. (2011)[6] published a study showing that black bears are going to areas where roads were decommissioned in significantly higher numbers than areas where roads were simply closed (with gates or barriers). Thus, if a goal was to truly improve wildlife conditions, then road densities need to be decreased even further.

A number of studies show that higher road densities also impact aquatic habitats and fish. Carnefix and Frissell (2009) provide a concise review of studies that correlate cold water fish abundance and road density, and from the cited evidence concluded that: [ldquo]1) no truly [ldquo]safe[rdquo] threshold road density exists, but rather negative impacts begin to accrue and be expressed with incursion of the very first road segment; and 2) highly significant impacts (e.g., threat of extirpation of sensitive species) are already apparent at road densities on the order of 0.6 km/km² (1.0 mi/mi²) or less[rdquo]. [7] Cold water salmonids such as threatened bull trout, are

particularly sensitive to the impacts of forest roads. The U.S. Fish and Wildlife Service's Final Rule listing bull trout as threatened (USDI Fish and Wildlife Service 1999) addressed road density, stating:

[...] assessment of the interior Columbia Basin ecosystem revealed that increasing road densities were associated with declines in four non-anadromous salmonid species (bull trout, Yellowstone cutthroat trout, westslope cutthroat trout, and redband trout) within the Columbia River Basin, likely through a variety of factors associated with roads (Quigley & Arbelbide 1997). Bull trout were less likely to use highly roaded basins for spawning and rearing, and if present, were likely to be at lower population levels (Quigley and Arbelbide 1997). Quigley et al. (1996) demonstrated that when average road densities were between 0.4 to 1.1 km/km² (0.7 and 1.7 mi/mi²) on USFS lands, the proportion of subwatersheds supporting [...]strong[...] populations of key salmonids dropped substantially. Higher road densities were associated with further declines[...] (USDI Fish and Wildlife Service (1999), p. 58922).

Based on the remaining high road densities, the environmental impacts from the identified future road system do not appear to be minimized. Alternative 3 is slightly better in terms of future assumed effects to benefit species, but all alternatives retain an unacceptably high road density.

As we noted in our scoping comments, we appreciate the Willamette National Forest's efforts to use their Road Investment Strategy, incorporate field data, and move forward with identifying a minimum road system for the project area. However, we do feel that the proposed [...]future[...] road system still is beyond the scope of road budgets to properly maintain and will still harbor road densities that are harmful to wildlife and aquatic species.

1.

Conclusion

National Forests play extremely important roles in ensuring rivers and streams remain clean, cold and are adequately protected. This can be achieved by significantly reducing sediment inputs and by protecting riparian areas. As decades long drought grips the western U.S., the role of the agency as [...]water protector[...] must become a top priority. Upper Willamette Chinook salmon, which are at very high risk of extinction in this area, need greater restoration measures to ensure survival, which the Forest Service can greatly contribute to. Alternative 3 has the potential for more aquatic benefits in this project area. Please keep in mind that the actions decided upon will chart the direction of this watershed for years thus we strongly encourage you to do this well.

If you have questions, please contact me.

Sincerely,

Marlies Wierenga Pacific NW Conservation Manager WildEarth Guardians mwierenga@wildearthguardians.org

[1] NEDC, WildEarth Guardians and Native Fish Society v. U.S. Army Corps of Engineers and National Marine Fisheries Service. U.S. District Court for the District of Oregon. No. 3:18-cv-00437-HZ. Draft Order. July 14, 2021.

[2] Miller, Stephanie A.; Gordon, Sean N.; Eldred, Peter; Beloin, Ronald M.; Wilcox, Steve; Raggon, Mark; Andersen, Heidi; Muldoon, Ariel. 2017. Northwest Forest Plan—the first 20 years (1994–2013): watershed condition status and trends. Gen. Tech. Rep. PNW-GTR-932. Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. 74 p.

[3] Influence of road reclamation techniques on forest ecosystem recovery. Lloyd, Rebecca A., Kathleen A. Lohse and TPA Ferre. *Frontiers in Ecology and the Environment*. March 2013.

[4] Kolka, R., and M. Smidt. 2004. Effects of forest road amelioration techniques on soil bulk density, surface runoff, sediment transport, soil moisture and seedling growth. *Forest Ecology and Management* 202: 313–323.

[5] Nelson, N., T. Black, C. Luce, and R. Cissel. 2012. Legacy Roads and Trails Monitoring Project Update. US Forest Service, Rocky Mountain Research Station, Boise, ID. 5 p.

[6] Switalski, T.A. and C.R. Nelson. 2011. Efficacy of road removal for restoring wildlife habitat: black bear in the Northern Rocky Mountains, USA. *Biological Conservation* 144: 2666–2673.

[7] Carnefix, G., and C. A. Frissell. 2009. Aquatic and Other Environmental Impacts of Roads: The Case for Road Density as Indicator of Human Disturbance and Road-Density Reduction as Restoration Target; A Concise Review. Pacific Rivers Council Science Publication 09-001. Pacific Rivers Council, Portland, OR and Polson, MT.