

August 19, 2024

Via online submission at <https://cara.fs2c.usda.gov/Public/CommentInput?Project=66558>

Mary Yonce, District Ranger
George Washington and Jefferson National Forests
North River Ranger District
401 Oakwood Drive
Harrisonburg, VA 22801

Re: Scoping comments on the Mad Lick Forest Resiliency and Restoration project

Dear Mary,

We appreciate the opportunity to comment on the Mad Lick Project. Please accept these comments on behalf of the Southern Environmental Law Center and the Virginia Wilderness Committee. We look forward to following this project and will provide additional comments as we learn more.

1. Project name and ecological restoration

The project is currently named the Mad Lick Resiliency and Restoration Project. While restoration and resiliency appear to be part of this project, we believe the that “Mad Lick Restoration and Management Project” better captures the breadth of this project and recommend that the District modify the project name accordingly.

Related, we encourage the agency to remember that protecting existing areas of high ecological integrity and passive restoration (ceasing activities that cause degradation and impede ecosystems or species recovery) are aspects of ecological restoration.¹ While timber harvest may be a tool for accomplishing restoration, timber harvest itself is not an ecological restoration goal or activity. Similarly, potential wildlife habitat improvement projects, e.g., wildlife openings and waterholes, might benefit particular species but might not meet the definition of ecological restoration.

Many proposed activities that are primarily ecological restoration goals may meet other goals as well. For example, restoring pine plantations to native hardwoods can also create early or open conditions when pines are removed. While restoration activities can often create Early

¹ See Dominick DellaSala et al., *A Citizen's Call for Ecological Forest Restoration: Forest Restoration Principles and Criteria*, 17-18, *Ecological Restoration* 21:1 (March 2003).

Successional Habitat (ESH), creating ESH out of characteristic, native, relatively healthy forests is not in and of itself ecological restoration.

To be clear, we do not believe that all proposed activities need to qualify as “ecological restoration.” Other activities may be proposed primarily to meet other goals, such as creation of ESH to benefit game wildlife. We simply urge the agency though to be clear about its goals for all proposed activities. Where the primary purpose of a proposed activity is ecological restoration, the agency should clearly describe the restoration needs at the location and explain how the proposed treatment will be restorative. Conversely, if the primary purpose of a proposed activity is not ecological restoration, the agency should be clear about that and how the activity will advance silvicultural or other goals.

On this point, we are eager to learn what percentage of the proposed 1,955 acres of regeneration harvest would be in white pine plantations, which likely constitutes ecological restoration, versus “to address the mesophication of upland oak forests, create a balanced age class distribution, and provide early seral habitat for young forest obligate wildlife,” which may or may not constitute ecological restoration, depending on the conditions and needs of specific sites.² Again, not all of the proposed management needs to constitute ecological restoration. But the District needs to be clear about this.

Given that the District is framing restoration as a primary purpose of this project, the project should have a primary emphasis on ecological restoration. With input from interested parties, the District should: identify and prioritize restoration needs in the project area; develop options for management actions that would address those needs; and explicitly tie proposed project activities and alternatives to those restoration needs and actions.

To identify needs and priorities for ecological restoration in the project area, the District should complete an ecological departure analysis like that done by TNC for the North Shenandoah project and many others. As you know, this helps step down the GW Plan’s ecological sustainability goals to the project level and can provide highly relevant information to help guide ecological restoration of past ecosystem degradation or damage. We suspect this will show as it typically does in our area that both the Pine and Oak ecozones (which are the most common ecosystem groups/ecozones on the GW and presumably cover much of the tentative project area), are significantly departed, with the biggest single need being to move forest structure from closed to open and a smaller need being the creation of early succession habitat. The proposed management should proportionally track the departure levels indicated in the departure analysis.

² Scoping Letter for Mad Lick Project 3 (July 17, 2024).

2. Inadequate scoping notice

We are disappointed with the lack of information provided in the scoping notice, which inhibits the meaningful public participation mandated by the National Environmental Policy Act (NEPA).³ To satisfy NEPA, the agency must supply the information necessary for interested parties to understand the proposed action and contribute to the NEPA process from beginning to end. Indeed, NEPA's implementing regulations require agencies to integrate the statute's requirements with the planning process at "the earliest reasonable time" in order to ensure the agency is considering environmental effects in its planning and decisions, to avoid delays later in the process, and "to head off potential conflicts."⁴ The failure to share your project information with the public is a concerning trend and hobbles this and other projects from the start.⁵

A main purpose of the scoping process is to identify significant issues and alternatives in an open, public process.⁶ The Forest Service Handbook clarifies that "[e]ffective scoping depends on . . . presenting a coherent proposal" that includes the who, what, how, where, and when of the action.⁷ In describing the "where" the Handbook directs the District to "describe the location as specifically as possible" and clarifies that "several scales of maps might be needed."⁸ With regards to the "what," the District should "focus as specifically as practicable on describing the activities."⁹ While the maps and shapefiles for the project indicate that the District has identified specific stands for treatment, the scoping notice and its maps provide none of this site-specific information to the public. Specifically, the District omitted maps showing units and a corresponding table that provides information about the units, including stand/compartment, approximate acreage, forest type, site index, age, and proposed prescription.¹⁰

Moreover, the notice omits information necessary for the public to identify issues and alternatives. Specifically, it makes no mention of the presence of federally-listed species, old growth, and primary trout streams within the watershed. Furthermore, the maps do not label landmarks, roads, management prescriptions, compartments, Wilderness areas, or many streams.

The District clearly understands the utility of specific information, having instructed commenters to "share any specific concerns and /or alternatives that you feel need to be considered within the context of this proposed action. Make your comments as concise as you

³ 40 C.F.R. § 1500.1(b).

⁴ 40 C.F.R. § 1501.2(a).

⁵ Forest Service Handbook 1909.15, ch. 10, sec. 11 at 5.

⁶ 40 C.F.R. § 1501.1, 1501.9; Forest Service Handbook 1909.15, ch. 10, sec. 11.

⁷ Forest Service Handbook 1909.15, ch. 10, sec. 11 at 7.

⁸ *Id.*

⁹ *Id.*

¹⁰ For a recent example of a scoping letter providing this basic information, see the scoping letter for Jennings Creek Watershed Project 6-7 (July 1, 2024), available at <https://www.fs.usda.gov/project/gwj/?project=66431>.

can and address the proposed action specifically.”¹¹ How can commenters have specific concerns without knowing even basic information like what management is being proposed where? We are eager to help the District develop this project (and others), but we cannot do our part until you complete yours. If the District decides to pursue this project, it should reinitiate the scoping process with better information.

3. Proposed management in the pending Shenandoah Mountain National Scenic Area

Although it is difficult to tell from the large-scale mapping, it appears that the District may be proposing regeneration and intermediate timber harvest in the Mad Lick/Broad Run/ Braley Pond area that is within the boundaries of the National Scenic Area (NSA) bill pending in the U.S. Senate now. If so, we suspect this is an oversight. We understand that the Forest Service reviewed the bill language and created the official legislative map that is incorporated into the bill and defines the boundaries of the NSA.¹² Once enacted, the GW Forest Plan will be amended to incorporate the NSA bill.¹³

As you may know, Senators Kaine and Warner have introduced the Shenandoah Mountain Act in the U.S. Senate. Once enacted, this bill will designate more than 92,000 acres of the George Washington National Forest as an NSA.¹⁴ This bill responds to the Forest Service's recommendation in its 2014 Revised Forest Plan that Congress designate an NSA and wilderness areas on Shenandoah Mountain.

By way of background, the bill is the product of decades of collaborative work from an incredibly diverse group of local conservationists, recreation groups, timber industry representatives, hunters, and anglers who united in 2010 with the goal of developing recommendations for the management of the George Washington National Forest (“GW Stakeholder Collaborative”). The product of their efforts was the submission of joint comments on the George Washington National Forest Draft Plan. The Final Plan, released in November 2014, reflected many of the recommendations and received broad public support as a result of the diligence of the GW Stakeholder Collaborative. The Forest Plan recommended the NSA and additional acres of Wilderness, as well as additional areas and objectives for management activities such as timber harvesting, controlled burning, and other habitat management techniques.

¹¹ Scoping Letter for Mad Lick Project 4 (July 17, 2024) (emphasis added).

¹² Both the bill and the legislative map are attached to these comments for your convenience. Map available at [sma_shenmntnsa_12july2023-final_1_copy.pdf](https://friendsofshenandoahmountain.org/sma_shenmntnsa_12july2023-final_1_copy.pdf) (friendsofshenandoahmountain.org)

¹³ See GW Forest Plan at 4-70: “Actual direction for the management of a National Scenic Area would be prescribed in the legislation that designates the area.”; Shenandoah Mountain Act, S. 2630 s. 3(p) (2023) (directing Secretary to amend GW Plan in accordance with the bill within two years of enactment).

¹⁴ [Text - S.2630 - 118th Congress \(2023-2024\): Shenandoah Mountain Act | Congress.gov | Library of Congress](https://www.congress.gov/bills/118/text/senate/2023/2630/1/1) (attached). The NSA bill is also now part of the US Senate's framework for a bipartisan 2024 Farm Bill.

The bill has garnered broad public support from more than 400 local businesses, organizations, and faith groups who have recognized the immense benefits the new designation will have on nearby communities. Rockingham and Augusta Counties, as well as the nearby cities of Staunton and Harrisonburg, also endorsed the proposal.

The stated purposes of the NSA are:

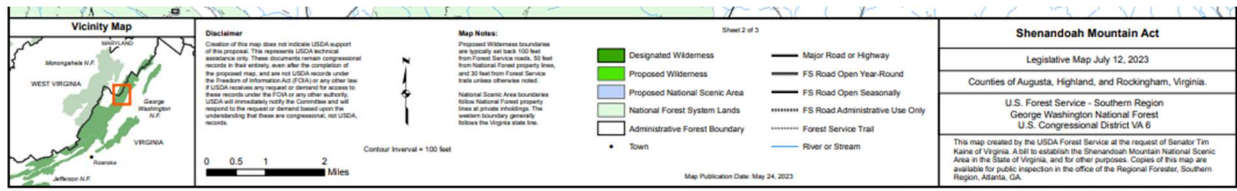
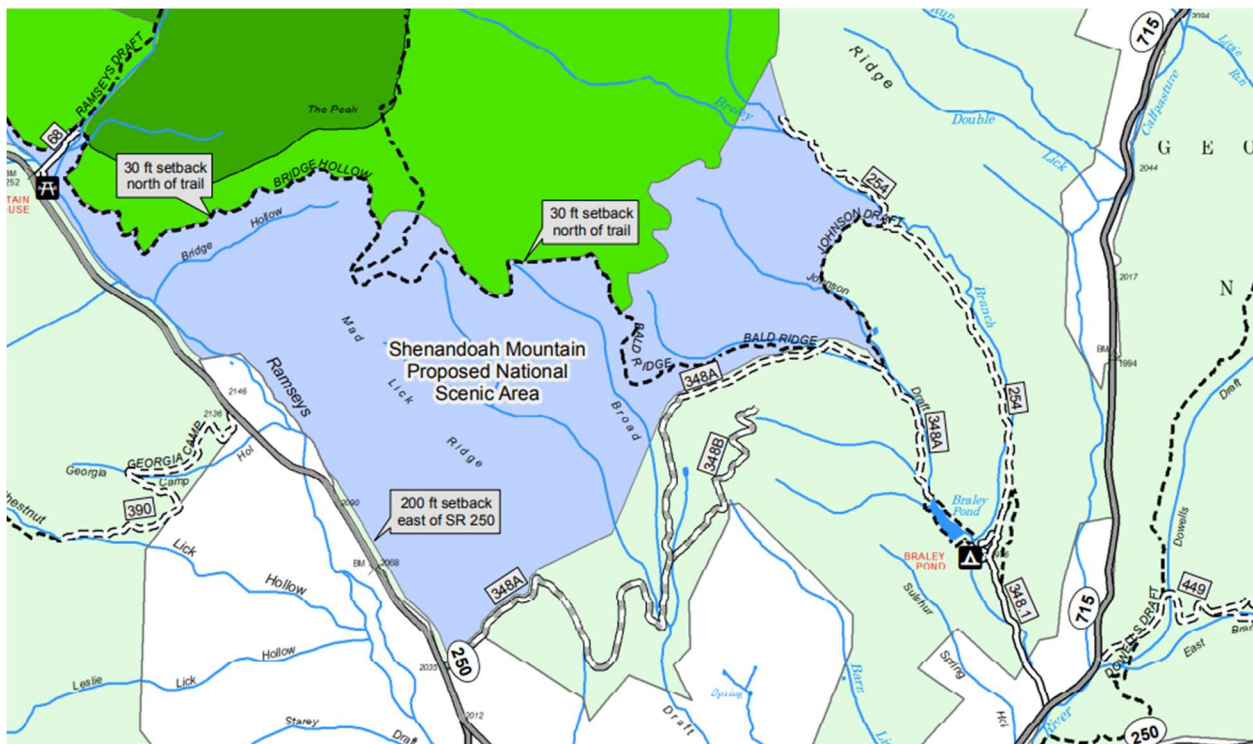
- (1) to ensure the protection and preservation of the scenic quality, water quality, natural characteristics, and water resources of the National Scenic Area;
- (2) to protect wildlife, fish, and plant habitat in the National Scenic Area;
- (3) to protect outstanding natural biological values and habitat for plant and animal species along the Shenandoah Mountain crest above 3,000 feet above sea level elevation, including the Cow Knob salamander;
- (4) to protect forests in the National Scenic Area that may develop characteristics of old-growth forests;
- (5) to protect the Wilderness Areas; and
- (6) to provide for a variety of, and improve existing, recreation settings and opportunities in the National Scenic Area in a manner consistent with the purposes of the National Scenic Area described in paragraphs (1) through (5).¹⁵

To achieve these purposes, the bill sets forth several management directives, including a prohibition of timber harvest or roadbuilding within the NSA.¹⁶ As we said above, however, it appears that the District may be proposing regeneration and intermediate timber harvest within the NSA in the Mad Lick/Broad Run/ Braley Pond area, though, it is difficult to tell from the large-scale mapping. If so, we suspect this is an oversight due to not using the boundaries set forth in the Forest Service's legislative map accompanying the bill, a close-up screen shot of which is provided below.¹⁷

¹⁵ Shenandoah Mountain Act, S. 2630 s. 3(b).

¹⁶ Shenandoah Mountain Act, S. 2630 s. 3(f) and 3(j); see also GW Forest Plan at 4-71.

¹⁷ Map available at [sma_shenmttnsa_12july2023-final_1_copy.pdf](https://www.friendsofshenandoahmountain.org/files/sma_shenmttnsa_12july2023-final_1_copy.pdf) ([friendsofshenandoahmountain.org](https://www.friendsofshenandoahmountain.org)).



We urge the District to review the NSA boundaries in the USFS legislative map and drop any proposed harvest within the NSA. This was the approach that the North River District took with the North River Timber Stand Improvement project in 2018/2019. With that project, oversight had led the District to propose management in the NSA.

4. Old Growth and mature forest

We urge you to commit to not logging any existing old growth as part of this project. The Southern Region “recognizes old-growth forests as a valuable natural resource worthy of protection, restoration, and management” for its various biological and social values.¹⁸ The network of large, medium, and small patches of old growth is intended to provide the ecological integrity of old-growth communities, representation of all old growth forest community types, distribution of these patches and types across the landscape, and connectivity between the old growth patches.¹⁹ Yet as the Forest Service acknowledged in the Final EIS supporting the 2014 Plan, even developing the Regional Guidance for old growth was difficult because “so few

¹⁸ *Guidance for Conserving and Restoring Old-Growth Forest Communities on National Forests in the Southern Region: Report of the Region 8 Old-Growth Team* (June 1997) (“Regional Guidance”) at 1, 12-14.

¹⁹ Regional Guidance at 15-18; Forest Plan at 2-21, Appendix B.

representatives of old growth conditions exist[.]”²⁰ Indeed, “old growth communities are rare or largely absent in the southeastern forests from Virginia south to Florida,” perhaps representing only around 0.5% of the total forest acreage in the Southeast.²¹ And according to the Regional Guidance for Old Growth, old growth is “the missing portion of the southern forest ecosystems.”²² Given the rarity and importance of old growth forest in the Southern Appalachians, we firmly believe that any existing old growth should be protected and that logging any existing old growth would be very difficult to justify, especially without an EIS.²³

Additionally, it is important to view logging proposals in the context of Executive Order 14,072, which requires the agencies including the Forest Service to inventory mature and old growth forests, analyze the threats they face, and develop “policies . . . to institutionalize climate-smart management and conservation strategies that address threats to mature and old-growth forests on Federal lands.”²⁴ The Forest Service is now going through a process to do so. This is critical as southern mature and old growth forests play an outsized role in providing habitat, carbon storage, climate resilience benefits, and connection with nature.

With this project, we urge the Forest Service to also recognize the important role of mature forests and analyze the impacts of the proposed logging of them. In addition to zooming in to evaluate whether a patch keys out as old growth under regional guidance, we encourage the Forest Service to also zoom out and consider the ecological value of mature stands and how they fit into the matrix of these areas.

Lastly, we believe that protecting existing old growth in the project area would allow this project to move forward more quickly with sizeable amounts of proposed management and restoration activities that are less controversial and thus more likely to lead to broader acceptance and support. This was the approach used in the collaborative Lower Cowpasture Restoration and Management Project and the North Shenandoah Mountain Restoration and Management Project which contributed greatly to the projects moving along more rapidly.

5. Scenic and recreation impacts

As you know, several areas within the project area have high recreational and scenic values. The proposed management will impact those values to some degree. For example, the northwest boundary of the White Oak burn unit seems to be close to the Wild Oak National Recreation Trail

²⁰ Plan FEIS at 3-229.

²¹ *Id.*; Regional Guidance at 1.

²² Regional Guidance at 1.

²³ Old growth forest holds biological, wildlife, recreational, research, scientific, educational, cultural, aesthetic, and spiritual values. See Region 8 Guidance at 12-14. Old growth forest takes centuries to develop, so it is irreplaceable on a human time scale if it is replaceable at all. See *Neighbors of Cuddy Mountain v. U.S. Forest Service*, 137 F.3d 1372, 1382 (9th Cir. 1998); *Idaho Sporting Congress v. Alexander*, 222 F.3d 562 (9th Cir. 2000).

²⁴ Exec. Order 14,072 s.2(b), 87 Fed. Reg. 24,851, 24,851 (Apr. 22, 2022).

area and the Ramsey's Draft Wilderness Addition, which is part of the pending NSA bill. As the Potomac Appalachian Trail Club (PATC) highlighted in their scoping comments, the Wild Oak Trail is frequented by hikers, mountain bikers, and equestrians. The burn unit is also close to sections of FR 96 and FR 95 that have excellent campsites that families have been using for generations, as well as some of the best undeveloped camping sites in the entire Shenandoah Mountain area. Similarly, the Braley Pond area is also a heavily visited area treasured by naturalists, anglers, hikers, and other visitors.

These popular recreation spots should not be degraded by management activities, and the Forest Service should carefully weigh the positive impacts of the proposed management against the negative impacts. For example, what are the objectives of the White Oak burn in this area? Is it intended to be a hot burn? Which species will benefit from the burn, and which will be negatively impacted? We look forward to learning this information and reviewing your analysis of impacts that the burn and logging may have on recreation and scenic resources in this area. We urge the District to modify its proposal and/or provide explicit measures to mitigate impacts to recreation and scenic resources, as well as address safety risks.

6. Impacts on drinking water and trout streams

The project area contains the North River, which provides water for Staunton and other downstream communities, as well as native trout streams. The District needs to carefully analyze the effects of herbicide use in these areas and others, as well as to avoid and/or mitigate adverse impacts on these important resources.

7. Non-native invasive species

Non-native invasive species (NNIS) is a complex, challenging issue for all land management agencies, and the GWJNF has identified NNIS as one of the four most critical threats to Forest Service-managed lands.²⁵ We know there are several non-native invasive species (NNIS) infestations in the project area, including mile-a-minute, which can be expected to colonize new openings in proposed harvest areas.²⁶ Before management activities take place, it is important to identify potential NNIS threats and develop a control/eradication plan that includes follow-up

²⁵ See George Washington and Jefferson National Forests, Forest-Wide Non-Native Invasive Plant Control Environmental Assessment ("NNIS EA") (2010).

²⁶ The PATC notes in its scoping comments that they and the District have spent years trying to eradicate a multi-acre patch of mile-a-minute on Hankey Mountain. This highlights the difficulty of dealing with NNIS, particularly mile-a-minute, once it has infested an area. As you know, mile-a-minute has several attributes that make it particularly damaging. It has vigorous growth that smothers other vegetation. The plants are self-fertile and therefore do not need pollinators. In addition to being a prolific seeder, its seeds can remain viable in the soil for many years and can germinate at staggered intervals. Its fruits are consumed by birds and spread through feces of birds and deer. In addition, its seeds can float for 7-9 days, allowing long-distance movement in water and swift spread throughout a watershed. Because of these attributes and the difficulty in treating mile-a-minute, we do not recommend creating openings where mile-a-minute exists or where there is a threat of it.

monitoring of any NNIS treatments for effectiveness and commits to funding this NNIS treatment. The District should analyze the impacts of NNIS, commit to assessing the project area for NNIS, and commit to treating affected areas where needed both before and after harvest. If the District determines that NNIS control/eradication is unlikely to succeed in a specific area, we urge you not to propose management until NNIS threats in those areas can be addressed adequately. This is particularly important in characteristic, native, relatively healthy forest.

8. Impacts on threatened, endangered, sensitive, and locally rare species

The project area hosts several imperiled and rare species such as endangered bats, spotted salamanders, and large whorled pogonia. We hope the District is immediately consulting with the U.S. Fish and Wildlife Service. Formal consultation and a biological opinion from the USFWS may be required. We look forward to reviewing the BE/BA and the District's related analysis.

9. Climate change impacts

NEPA regulations require agencies to consider the "cumulative effects" of their actions.²⁷ A proper cumulative-effects analysis requires an agency to consider "the incremental effects of the action when added to the effects of other past, present, and reasonably foreseeable actions."²⁸ This includes the reasonably foreseeable effects of climate change.²⁹ It also includes the effects "from individually minor but collectively significant actions taking place over a period of time"³⁰—like the aggregate impacts of the Forest Service's timber projects on carbon storage. This requires more than simply weighing the size and carbon storage impacts of this project relative to the George Washington National Forest, as well as the nation and globe.

²⁷ 40 C.F.R. §§ 1501.3, 1508.1(g)(3) (2022).

²⁸ 40 C.F.R. § 1508.1(g)(3).

²⁹ *Appalachian Voices v. U.S. Dep't of Interior*, 25 F.4th 259, 271 (4th Cir. 2022).

³⁰ *Id.*

Thank you again for the opportunity to comment. We would be pleased to discuss these comments and look forward to being involved with this project as it moves forward.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Davis', followed by a period.

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Attachments

cc: Charles Faires, Project Leader (via email, Charles.faires@usda.gov)