

February 7, 2025

Appeal Reviewing Officer  
U.S. Forest Service Intermountain Region  
%: [Mary Farnsworth, Regional Forester](#)  
[mary.farnsworth@usda.gov](mailto:mary.farnsworth@usda.gov)

Re: **OBJECTIONS Pursuant to 36 C.F.R. § 218.8 to Skyline Healthy Forests  
Restoration Act Project**

*Submitted electronically through the project webpage comment portal and via email.*

To the Intermountain Region Appeal Reviewing Officer:

The following is an Objection filed by the Grand Canyon Trust, Center for Biological Diversity, and Western Watersheds Project to the Environmental Assessment, Finding of No Significant Impact, and Draft Decision Notice for the Skyline Healthy Forests Restoration Act Project.

In general, we are in favor of the Forest's plan to reduce the risk of uncharacteristic wildfires, increase resilience of existing vegetation groups, and improve ecological function of vegetative communities and wildlife habitats. However, we remain concerned over some important issues and request further clarification, revision of the EA, or preparation of an EIS regarding the topics below. These issues were raised in our prior comments on the Project.

#### Project Objected To

Pursuant to 36 C.F.R. § 218.8(d)(4), Grand Canyon Trust et al. object to:

*Project:* Skyline Healthy Forests Restoration Act Project, Manti-La Sal National Forest, Project #64839

*Responsible Official and Forest/Ranger District:* Barbara Van Alstine, Forest Supervisor, Manti-La Sal National Forest

#### Timeliness

These objections are timely filed. Notice of the Draft DN and FONSI was published in the ETV News on January 8, 2025. *See* Legal Notice, in the Forest Service project file. The 30<sup>th</sup> day after the date of the January 8, notice is Friday, February 7, 2025, and so the objection period expires at 11:59 PM Mountain on the 7th. *See* 36 C.F.R. §§ 218.6(a), 218.7(c)(iv).

#### Lead Objector

Per 36 C.F.R. § 218.8(d)(3), the Objectors designate the "Lead Objector" as follows:

Kaya McAlister Lead Objector, Utah Public Lands Manager  
Grand Canyon Trust  
2601 N. Fort Valley Rd.  
Flagstaff, AZ 86001  
928-286-3393  
kmcalist@grandcanyontrust.org

### Interests and Participation of the Objectors

The Grand Canyon Trust is a regional non-profit conservation organization whose mission is to safeguard the wonders of the Grand Canyon and the Colorado Plateau, while supporting the rights of its Native peoples. We envision a Colorado Plateau where wildness, the diversity of native plants and animals, clean air, and flowing rivers abound; where sovereign Tribal Nations thrive; where a livable climate endures; and where people passionately work to protect the region they love for future generations. Grand Canyon Trust staff, members, and supporters use and enjoy the Manti-La Sal National Forest and the lands within the Skyline Project area.

The Center for Biological Diversity is a non-profit environmental organization with more than 1.7 million members and online activists who value wilderness, biodiversity, old growth forests, and the threatened and endangered species which occur on America's spectacular public lands and waters. Center members and supporters use and enjoy the Manti-La Sal National Forest and the lands within the Skyline Project area for recreation, photography, nature study, and spiritual renewal.

Western Watershed Project is a west-wide non-profit 501(c)(3) membership organization dedicated to protecting and conserving the public lands and natural resources of watersheds in the American West. WWP has over 11,000 members and supporters, including members who live in Utah. Western Watersheds Project members and supporters use and enjoy the Dixie National Forest and the lands within the Hungry Creek project area. WWP is active in seeking to protect and improve the riparian areas, water quality, fisheries, wildlife, and other natural resources and ecological values of western watersheds. To do so, WWP actively participates in agency decision-making concerning Forest Service and BLM lands throughout the West, and the Forest Service and BLM's management of livestock grazing in Idaho, Nevada, Utah, Colorado, Arizona, Montana, California, Oregon, and Wyoming.

### **I. Lack of Specificity Regarding Treatment Effects**

The Agency has failed to analyze the impacts of the proposed actions in detail and, in so doing, has violated NEPA's hard look requirement. Despite the vast amount of information (primarily related to fire behavior), the EA fails to provide essential information, and the public is left guessing about the exact nature of the proposed action and, more importantly, what the end results will be. While the Agency briefly describes desired conditions, existing conditions, and treatment types, nowhere does it answer fundamental questions essential to understanding what the effects of the proposed action would be, as outlined below.

Under the proposed action, 58,000 acres are proposed for vegetation treatments and 41,000 acres are proposed for timber stand improvement by mastication, while prescribed burning is proposed across the entire project area (97,000 acres). The BA states: “Prescribed burning would be used in conjunction with mechanical treatments or independently applied where feasible.” It goes on to state: “Prescribed burning would be implemented within different vegetation types (spruce-fir, aspen, mixed conifer, pinyon juniper and others)...” BA at 6.

Regarding the potential overlap of vegetation treatments and prescribed fire treatments, the EA and associated documents fail to specify the following:

- where this overlap occurs and the total acreage of overlap
- where there is overlap, which specific vegetation treatment(s) and fuels treatment(s) would be used
- where multiple treatments would be used, what the effects of this combination of treatments would be and how those effects might differ from using each treatment in isolation

Proposed Resolution:

- Analyze the issues raised above in detail, preferably in an EIS or in a programmatic NEPA document with subsequent tiered, site-specific NEPA analyses.

## **II. The Proposed Action Violates the Roadless Rule.**

The national Roadless Area Conservation Rule, adopted in 2001, generally prohibits the cutting, sale or removal of timber from National Forest Service inventoried roadless areas in Utah. 36 C.F.R. § 294.13(a), published at 66 Fed. Reg. 3244 (Jan. 12, 2001) (“Timber may not be cut, sold, or removed in inventoried roadless areas of the National Forest System, except as provided in paragraph (b) of this section.”).

Because the Skyline Project proposes logging and tree removal via mechanical harvesting and mastication across approximately 53,000 acres within inventoried roadless areas (IRAs), the Forest Service can only authorize such treatments if the agency complies with the Roadless Rule. However, the Forest Service fails to demonstrate that the proposed action will comply with that law.

Further, the potential impact to roadless area values and characteristics requires preparation of a full environmental impact statement.

Objectors raised each of these issues below in their comments on the 2023 EA. See letter of K. McAlister et al. (Oct. 24, 2023) at 10-17, and letter of M. Garrity et al. (Oct. 21, 2023) at 38-51, 91-96, 154-176, both in the Forest Service project file.

### **A. The Skyline Project Proposes Tree Removal and Hundreds of Miles of Constructed “Trails” Within IRAs.**

The Project covers approximately 100,000 acres of tree removal, the majority of which (52,717 acres) will occur “within 15 IRAs, emphasizing two treatment types: mechanical harvest and mastication.” Skyline EA at 63. The nearly 53,000 acres of tree removal would include approximately 33,000 acres of mechanical logging and 20,000 acres of “mastication” EA at 16. Logging and tree removal would occur across the majority of two IRAs, Oak Creek (where 69% of the IRA would be “treated”) and Heliotrope (52% “treated”). EA at 17. More than one-third (37%) of the Big Horseshoe IRA would also see timber harvesting and mastication. EA at 17. With respect to these three IRAs, the EA alleges: “Despite the broader portions of these IRAs affected, the necessity for treatment outweighs the potential impacts.” EA at 63.

The EA does not appear to disclose what kind of mechanical logging will occur within IRAs. It does imply that “pre-commercial thinning” will occur. See EA at 85, 87.

The EA also contains little discussion of what species of trees or what type of stands would be logged. The Decision Notice asserts that 24,000 acres of aspen stands would be treated in IRAs. EA at 89. The areas proposed for logging “are dominated by late seral conifer stands,” indicating that most of these IRAs are dominated by large trees. EA at 10.

Although the EA alleges that “[n]o roads or temporary roads would be constructed within” IRAs, EA at 15, 76, it also admits that IRA will be criss-crossed by hundreds of miles of constructed trails to be used by motorized vehicles:

Approximately 308 miles of forwarding trails would be utilized within IRAs. A forwarding trail is typically a *12-foot-wide travel corridor* used specifically and solely by equipment for timber removal purposes, not including any road worthy equipment, with limited blading, cuts-and-fills, and *construction*.

Manti-La Sal NF, WORKSHEET 1 – Roadless Area Characteristics (Nov. 12, 2024) at 2 (emphasis added) (in public project file). More than 50 “traditional” log “landings,” where the forest will be cleared to stack timber, will be constructed within IRAs. *Id.*

## **B. Legal Framework: The Roadless Rule**

The Roadless Rule provides that, in general, “[t]imber may not be cut, sold, or removed in inventoried roadless areas of the National Forest System.” 36 C.F.R. § 294.13(a). One exception to this general provision states:

timber may be cut, sold, or removed in inventoried roadless areas if the Responsible Official determines that one of the following circumstances exists. The cutting, sale, or removal of timber in these areas *is expected to be infrequent*.

(1) The cutting, sale, or removal of *generally small diameter timber* is needed for one of the following purposes and will maintain or improve one or more of the roadless area characteristics as defined in § 294.11.

(i) To improve threatened, endangered, proposed, or sensitive species habitat; or

(ii) To maintain or restore the characteristics of ecosystem composition and structure, such as to reduce the risk of uncharacteristic wildfire effects, within the range of variability that would be expected to occur under natural disturbance regimes of the current climatic period.

36 C.F.R. § 294.13(b)(1) (emphasis added). The Roadless Rule defines roadless area characteristics as:

Resources or features that are often present in and characterize inventoried roadless areas, including:

- (1) High quality or undisturbed soil, water, and air;
- (2) Sources of public drinking water;
- (3) Diversity of plant and animal communities;
- (4) Habitat for threatened, endangered, proposed, candidate, and sensitive species and for those species dependent on large, undisturbed areas of land;
- (5) Primitive, semi-primitive nonmotorized and semi-primitive motorized classes of dispersed recreation;
- (6) Reference landscapes;
- (7) Natural appearing landscapes with high scenic quality;
- (8) Traditional cultural properties and sacred sites; and
- (9) Other locally identified unique characteristics.

36 C.F.R. § 294.11. The rule requires a highly site-specific analysis, given the regulation's emphasis on "*locally identified unique characteristics*." *Id.* (emphasis added).

The Roadless Rule's preamble reinforces the need for such a site-specific analysis.

Because of the great variation in stand characteristics between vegetation types in different areas, a description of what constitutes "generally small diameter timber" is not specifically included in this rule. Such determinations are best made through *project specific* or land and resource management plan *NEPA analyses*, as guided by ecological considerations such as those described below.

The intent of the rule is to limit the cutting, sale, or removal of timber to *those areas that have become overgrown with smaller diameter trees....*

[A]ll such *determinations of what constitutes “generally small diameter timber”* will consider how the cutting or removal of various size classes of *trees* would affect the potential for future development of the stand, and the characteristics and interrelationships of plant and animal communities associated with the site and the overall landscape. *Site productivity due to factors such as moisture and elevational gradients, site aspect, and soil types will be considered, as well as how such cutting or removal of various size classes of standing or down timber would mimic the role and legacies of natural disturbance regimes in providing the habitat patches, connectivity, and structural diversity critical to maintaining biological diversity.* In all cases, the cutting, sale, or removal of small diameter timber will be consistent with maintaining or improving one or more of the roadless area characteristics as defined in § 294.11. ....

Vegetative management would focus on removing generally small diameter trees *while leaving the overstory trees intact.* The cutting, sale, or removal of trees pursuant to 294.13(b)(1) *must be clearly shown through project level analysis to contribute to the ecological objectives described.* Such management activities are expected to be rare and to focus on small diameter trees.

Forest Service, Roadless Area Conservation Rule, 66 Fed. Reg. 3244, 3257, 3258 (Jan. 12, 2001) (emphases added). In adopting the Roadless Rule, the Forest Service thus anticipated that logging in IRAs under this specific exception would only occur following a project-level NEPA analysis that evaluated *stand-specific conditions*.

As the Ninth Circuit Court of Appeals has summarized the Roadless Rule’s requirements:

“[w]hether the [Forest] Service may harvest timber in an inventoried roadless area is a three-step inquiry.” *All. for the Wild Rockies v. Krueger*, 950 F. Supp. 2d 1196, 1214 (D. Mont. 2013), *aff’d sub nom. All. for the Wild Rockies v. Christensen*, 663 F. App’x 515 (9th Cir. 2016). “First, the timber to be harvested must be ‘generally small diameter.’ Second, the harvest must be needed for one of two listed purposes [as defined in 36 C.F.R. § 294.13]. Third, the harvest must maintain or improve one or more of the roadless area characteristics as defined in § 294.11.” *Id.*

*Los Padres ForestWatch v. United States Forest Serv.*, 25 F.4th 649, 656 (9th Cir. 2022).

### **C. The Forest Service Fails to Explain How the Project Will Comply with the Prohibition on Road Construction within IRAs.**

The Roadless Rule prohibits road construction within IRAs except in a narrow number of circumstances, none of which apply to this project, and none of which the EA invokes. 36 C.F.R. § 294.13.

While the EA asserts that “[n]o roads or temporary roads would be constructed within inventoried roadless areas,” EA at 76, other information in the record paints a less clear picture. The project will involve on-the-ground establishment, including by construction, of

more than 300 miles of “forwarding trails.” These “travel corridors” will be 12 feet wide, the size of a lane on the US’s interstate highway system. See Wikipedia entry for “Lane,” <https://en.wikipedia.org/wiki/Lane> (“In the United States, the Interstate Highway standards for the Interstate Highway System use a 12 ft (3.7 m) standard lane width”). These routes will involve “limited ... construction.” EA at 76. They will be traveled by logging equipment, presumably wheeled vehicles. These “forwarding trails” appear to have many aspects of “roads.” Yet by labeling these travel routes as “trails,” the Forest Service purports to escape the prohibition on road construction in IRAs.

Proposed Resolution:

- The Forest Service should demonstrate, with evidence, that no roads will be constructed within any of the IRAs. Specifically, the Forest Service should explain why and how the hundreds of miles of constructed “forwarding trails” within the IRAs do not amount to “roads” prohibited by the Roadless Rule.

**D. The Forest Service Fails to Ensure that Roadless Area Logging Will Be “Infrequent.”**

The Roadless Rule “expects” that logging (tree removal) in roadless areas for any purpose will “be infrequent.” 36 C.F.R. § 294.13(b). The proposed action contains contradictory statements about the frequency of treatments the agency expects to undertake in the 15 IRAs.

The EA states:

The proposed actions are infrequent, stands affected by insects and disease such as spruce beetle occur at an approximately frequency of 250-300 years. The need for a treatment as outlined in the proposed action would not be needed at least another 150-200 years. Fuels reduction in these areas would be a one-time entry. Intermediate treatments such as pre-commercial thinning or timber stand improvement activities would also be planned.

EA at 76. Certainly, logging occurring only once every 1.5 centuries appears to be “infrequent.” But the final sentence in this paragraph muddles the picture. If “intermediate treatments such as pre-commercial thinning or timber stand improvement activities would also be planned” within IRAs, how often would they take place? It is impossible for the decision maker or the public to understand whether logging in IRAs for this and subsequent projects will be “infrequent” if the agency provides no estimate of the frequency of “intermediate” treatments.

Proposed Resolution:

- In any subsequently prepared NEPA document, preferably an EIS, the Forest Service must ensure that any tree removal is “infrequent,” and explain how it would be so, including estimating how often “intermediate treatments such as pre-commercial thinning or timber stand improvement” would occur in the future in the 15 IRAs.

**E. The Forest Service Fails to Ensure that Logging Will Be Limited to “Generally Small Diameter Timber.”**

The EA asserts:

The proposed action meets the criteria for exception(s) to the policy. The proposal includes limited and infrequent timber removal, focusing on small-diameter trees, with a goal of enhancing characteristics of the roadless area, restoring ecosystem structure and composition, and reducing the risk of uncharacteristic wildfires. Although it is consistent with the 2001 Roadless Rule, IRAs may be adversely affected in the short-term but are expected to be beneficially affected in the long term from the proposed action.

EA at 63.

Here, the EA suggests that the Project may meet multiple “exception(s)” to the general prohibition on tree removal in IRAs, although it does not identify which specific subsection of the Roadless Rule the Forest Service is invoking. The EA appears to assert that 36 C.F.R. § 294.13(b)(1)(ii) applies; that subsection authorizes the logging of “generally small diameter timber” where necessary “[t]o maintain or restore the characteristics of ecosystem composition and structure.”<sup>1</sup>

The EA also contains some language that alleges that the project will remove generally small diameter timber, although the rationale that the Forest Service provides does not comply with the Roadless Rule. The EA states:

In order to reduce fuels to a level deemed low risk, much of the biomass must be removed or consumed with fire. Historical markets show 10-14 inches diameter at breast height (DBH) is the smallest diameter considered feasible for harvest. Generally small-diameter trees with an average DBH of 14 inches or less would be removed from the IRA. Under regional guidance the smallest diameter merchantable is 8 inches DBH. The removal of smaller diameter timber, specifically an average of 14 inches DBH or less, aligns with the following established definitions. The Vegetation Structural Stage (VSS) classification system serves as a standardized framework for both the public and Forest Service employees, allowing for a shared understanding of the various stages of forest development. This system includes six classifications: grass-forb/shrub (0 - 1 inch DBH); seedling-sapling (1 - 5 inches

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<sup>1</sup> Elsewhere, the EA alleges that the project will comply with special management area law and regulations including the “Roadless Area Conservation Rule, 36 CFR 249.12(b)(2).” EA at 76. No such regulation exists. Even if the Forest Service meant to cite 36 C.F.R. § 294.12(b)(2), that subsection of the Roadless Rule authorizes road construction in IRAs if a road is needed to conduct a “response action” pursuant to the Superfund law, or “to conduct a natural resource restoration action” under Superfund, the Clean Water Act or the Oil Pollution Act. That provision is irrelevant to this project. Any subsequently prepared NEPA analysis must correct or clarify this citation.

DBH); young forest (5 - 12 inches DBH); mid-age forest (12 - 18 inches DBH); mature forest (18 inches DBH and larger); and old growth.

Furthermore, according to Hamilton (1993), old growth for spruce and fir in Utah is characterized by a DBH of 20 inches or more. Interior Douglas fir, old growth is defined as having a DBH greater than 24 inches on good sites and over 18 inches on poorer sites.

EA at 75. This statement ignores the plain language of the Roadless Rule and its preamble in numerous ways.

First, the EA appears to base its definition of “small diameter” trees based on what the Forest can sell *as commercial timber*. “Historical markets show 10-14 inches diameter at breast height (DBH) is the smallest diameter considered *feasible for harvest*. Generally small-diameter trees with an average DBH of 14 inches or less would be removed from the IRA. Under regional guidance the smallest diameter *merchantable* is 8 inches DBH.” EA at 75. The “Comment Consideration” document appears to make a similar argument, though the figures it uses are inexplicably different, asserting that “8 inches diameter is the absolute smallest size considered harvestable.” Skyline HFRA Comment Consideration (Jan. 2025) at 17 (in project file). The Forest Service contends that “[t]he timber industry considers 8-15 inches diameter small diameter.” *Id.*

Nothing in the Roadless Rule or its preamble supports this commercially-based definition of “generally small diameter.” As discussed above, the Rule’s preamble uses the term “tree” and “timber” interchangeably, and states plainly that “[t]he intent of the rule is to limit the cutting, sale, or removal of timber to those areas that have become overgrown with smaller diameter *trees*.” Forest Service, Roadless Area Conservation Rule, 66 Fed. Reg. at 3257 (emphasis added). “Vegetative management would focus on removing generally small diameter *trees* while leaving the overstory trees intact.” *Id.* at 3258 (emphasis added). Further, the Rule makes clear that what is considered a small diameter tree must be based upon a site-specific, stand-level analysis based on the nature of the trees, not on what industry hopes to profit from. Any assertion by the Forest Service that it is complying with the Roadless Rule by authorizing the removal of the smaller end of what the Forest as a whole has been able to sell as merchantable timber therefore is unsupported by, and would violate, the Roadless Rule.

Second, and for much the same reason, the Forest Service’s statements, without analysis, of the Vegetation Structural Stage (VSS) classification system provide no basis for identifying what should be considered a “small diameter” tree on the specific roadless areas within this National Forest. *See* Skyline HFRA Comment Consideration (Jan. 2025) at 17 (“The removal of smaller diameter timber, specifically an average of 14 inches DBH or less, aligns with the following established definitions,” and citing VSS classification). While the VSS may provide a broad framework for providing some understanding that larger trees are older, it is not intended to, and cannot, substitute for a species-specific, site-specific analysis of what constitutes small, understory trees that the Roadless Rule requires. (The Roadless Rule preamble nowhere mentions either “VSS” or “structural stage.”) Further, it is beyond

dispute that a small, medium, or large aspen is not the same size as a small, medium, or large Douglas fir, ponderosa pine, or Engelmann spruce, and that soil, aspect, and slope can impact the size of trees at a particular site. Thus, the VSS classification system is irrelevant to the question of what constitutes a "generally small diameter" tree for this project area, or any of the stands within it.

Third, the citation to a study that identifies varying sizes for old growth for a couple of species of trees is also irrelevant to a definition of "small diameter" trees. It does not follow that all trees besides old growth are "generally small diameter," and the Forest Service provides no basis for such a determination.

Other evidence that the Forest Service uses to support a 14-inch dbh average for logging in IRAs is similarly baseless. The assertion that "the average diameter of treatments within IRA on other projects has been between 12-14 inches" is without foundation and irrelevant. The Forest Service provides no data to support this assertion, nor does it provide evidence that the agency rigorously applied the Roadless Rule in those "other projects."

We note that a federal appeals court decision demonstrates that to comply with the Roadless Rule, the Forest Service must undertake a site-specific analysis defining "small diameter" trees, support that definition with site-specific data, and generally limit such logging to those small diameter trees. In *Los Padres ForestWatch v. United States Forest Serv.*, 25 F.4th 649 (9th Cir. 2022), the Forest Service approved the Tecuya Ridge logging project in a roadless area, setting a limit of logging trees less than 21 inches diameter at breast height (dbh), arguing that trees of such width constituted "generally small diameter timber." *Los Padres ForestWatch*, 25 F.4th at 656-57. The court found that the Forest Service failed to support its conclusion that a 21-inch DBH tree constituted a "small diameter" tree, noting among other things that "the Forest Service did not attempt to articulate this explanation or, indeed, provide any information at all on the average dbh of the trees located within the ... Project area." *Id.* at 658. The court therefore found the agency violated the Roadless Rule and remanded the project back to the Forest Service for further explanation as to what constitutes a small diameter tree. *Id.* at 659.

Here, the Manti-La Sal National Forest has done just what the Forest Service did in *Los Padres ForestWatch*. The Forest Service chose a number - an average of 14 inches dbh - without providing data as to the nature of the trees in the project area. Neither the EA nor the supporting documents purport to define what constitutes a "small diameter" tree on a stand-by-stand basis within the massive project area, let alone within IRAs. Because the Forest Service provides no stand-level data for the project (including roadless areas), neither the public nor the decision-maker can discern the size of trees in stands in the project area, or the size of trees to be removed. Thus, as with the project at issue in the *Los Padres ForestWatch* case, a reviewing court is likely to set aside the Skyline project for violating the Roadless Rule.

It is also unclear how the figure the Forest Service chose - an *average* of 14 inches dbh - will result in the logging of "generally small diameter" trees. It is thus not a valid method for ensuring Roadless Rule compliance. The 14-inch average figure here is not a cap that

ensures that as a general rule the trees removed will be 14 inches dbh or less. The agency could, for example, remove an equal number of trees being 2 inches dbh, and the other half being 26 inches dbh, the latter category likely being some of the largest trees within the IRAs. “Generally” means “usually.” See Merriam-Webster’s online dictionary. A “guideline” that allows the agency or its contractors to remove an equal number of unusually large and small trees could not in any way be considered to “generally” remove small diameter trees. As another example, the agency could remove trees 40% of which are 8 inches in diameter and 60% of which are 18 inches in diameter to meet the 14-inch average. This would result in “generally” larger trees being logged, violating the Roadless Rule.

Nor does the Forest Service explain how the project’s design features will limit logging to small trees, while the EA implies just the opposite. For example, the EA admits that the areas proposed for logging “are dominated by late seral conifer stands,” EA at 10, indicating that most of these IRAs are dominated by large trees, and thus that large trees are likely to be removed. EA at 10. Timber stand improvement by mastication will remove “all live conifers 66 feet from any live aspen,” with no limits on the size of trees to be removed, or any discussion of the nature of the forest in that 66-foot zone. EA at 16. “Mechanical harvesting” treatments will target trees difficult to masticate or burn, identified as trees “greater than 8-inch diameter,” EA at 15, meaning such treatments will specifically *avoid* small diameter trees and target *larger* ones, the opposite of the Roadless Rule’s command. The proposal intends to “reset many mixed conifer stands to an early successional stage,” EA at 33, meaning that the purpose is to eliminate large trees in favor of small, young trees.

The EA further fails to explain how the 14-inch average suggestion will intersect with logging of aspen and pinyon-juniper. The EA indicates that old growth aspen and P-J are those trees 12 inches diameter and greater and of a certain age. EA at 24. Thus logging stands that are an average of 14 inches diameter in IRAs in these forest types would eliminate, on average, the very largest and oldest trees, rather than those with generally small diameter. In addition, the EA and Decision Notice assert that 24,000 acres of aspen stands would be treated in IRAs, EA at 33, 89, and the EA indicates that at least some of these treatments will include “regeneration” logging which will remove *all* trees in chunks at least 500 acres in size. EA at 23, 35. In other words, the project will clearcut nearly square-mile swaths without regard to the size of aspen, whether the trees are large or small diameter. The EA states that “increasing the proportion of early successional habitats is beneficial.” EA at 27. This means that logging will target older, larger trees to retain or encourage the growth of younger, smaller ones. This turns upside-down the Roadless Rule’s command that larger trees be preserved while removing smaller ones. Other treatments to address aspen communities “may involve removing competing vegetation and managing conifer density” to “prevent[] conifer dominance.” EA at 27, 32. Such treatments usually involve removing larger conifers that are competing with understory aspen, which again contradicts the Roadless Rule’s favoring the protection of overstory trees.

It is also difficult to square the 14-inch diameter average proposal as focusing on “generally small diameter” trees with the Biological Assessment’s statements that the beetle epidemic has meant “many of the [spruce-fir] stands no longer contain trees with diameters greater than 12 inches,” Biological Assessment at 15, and that the epidemic “has killed over 90

percent of the Engelmann spruce greater than 8 inches in diameter between 1991 and 2015.” *Id.* at 14. Allowing logging of trees an average of 14 inches in diameter in such spruce and spruce/fir stands would appear to target the very largest remaining trees.

Further, the EA indicates that it intends to use “commercial timber harvesting” as well as, and as distinct from, “thinning of understory trees” to meet project goals. EA at 27. “Thinning of understory trees” is likely consistent with the Roadless Rule, as it targets smaller trees and retains larger, overstory ones. In contrast, commercial timber harvesting usually targets larger trees for removal.

In short, the project’s design implies few limits on removing the largest trees, targeting large large trees for removal, and fails to support the agency’s assertion that logging in IRAs will be limited to generally small diameter trees.

While the project includes two “project design features” concerning the use and construction of routes and travel ways inside IRAs, EA at 22, it contains nothing that limits the logging or removal of trees to those of a certain diameter. The EA’s statement that “[g]enerally small-diameter trees with an average DBH of 14 inches or less would be removed from the IRA,” EA at 75, does not limit the size of trees to be logged or masticated, and provides no guarantee that the agency will comply with the Roadless Rule. That would require a prescription or design feature in the Decision Notice. The agency has not adopted such a measure.

The Forest Service could have clarified the issue by providing explicit design features that limit logging and tree removal within IRAs to comply with the Roadless Rule, providing a site-specific basis for doing so. As noted above, the Roadless Rule preamble indicates that before the agency can use the exception permitting logging within IRAs, it must undertake a *site-specific analysis* to determine the *nature of individual stands to be logged*. The EA does not reflect that the Forest Service has undertaken or will undertake such an analysis. We urge any subsequently prepared NEPA document to include specific design features that limit logging to generally small diameter trees, based on species-specific and stand-specific information. In any subsequently prepared NEPA document, the Forest Service must describe, specifically, whether and how each treatment type and unit, on a stand specific basis, will comply with the Roadless Rule requirement that permits removal of only “generally small diameter trees.” Without this information, neither the Forest Service nor the public can be assured that Forest Service will limit logging within Roadless Areas to that allowed by law.

Further, for each tree species the Forest Service intends to remove in each specific stand for this project, the Forest Service must explain how the project’s provisions and design features will limit logging to small trees, define what such trees might be, and must provide stand-level data for the project (including roadless areas).

In addition, the public’s ability to understand whether the Forest Service will comply with the Roadless Rule is hampered by the fact that the agency does not disclose the specific types of treatments it intends to undertake in IRAs aside from the general terms (e.g.,

“commercial timber harvesting” ). It is difficult to tell if the project will target small, understory trees in IRAs because the Forest doesn’t disclose what *form* mechanical logging will undertake on which acres.

We note that the Intermountain Region has recently required more in terms of Roadless Rule compliance than the Manti-La Sal did here. For example, the Forest Service failed to define small diameter timber by species or to provide any basis or stand-specific data supporting such a definition for the Ashley National Forest’s Aspen Restoration Project, which involved the removal of aspen and conifers within aspen stands on up to 140,000 acres of IRAs. Upon being sued for violating the Roadless Rule in 2024, the Ashley National Forest promptly withdrew the decision.<sup>2</sup> We also note that many of the undersigned filed a pre-decisional objection last year challenging the Dixie National Forest’s Hungry Creek Project because the Dixie failed to identify and support its identification of small diameter trees in three IRAs that the Hungry Creek Project would log. The Intermountain Region found that our objection had merit and instructed the Dixie NF to define small diameter trees for the project.

We urge the Manti-La Sal National Forest not to repeat the same reversible errors as the Ashley and Dixie National Forests.

Further, because the Skyline Project likely violates the Roadless Rule, the Forest Service must prepare a full environmental impact statement (EIS). Federal courts interpreting NEPA have identified numerous factors that may require an agency to find that an action is likely to have a significant impact, and therefore requires preparation of an EIS. One of those is whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment. See Forest Service Handbook 1909.15, Ch. 15 (agency NEPA handbook quoting the CEQ regulations).

*Proposed Resolution:*

- In any subsequently prepared NEPA document, preferably an EIS, the Forest Service must describe whether and how each specific treatment type within each IRA will comply with the Roadless Rule requirement that allows removal of only “generally small diameter” trees, with reference to each individual stand that is proposed for any type of tree removal, and must define “generally small diameter tree” within that context, not within the context of the trees industry will pay to remove. Without this information, neither the Forest Service nor the public can determine whether the Forest Service will limit logging within Roadless Areas to that allowed by law.
- Any subsequently prepared NEPA document and decision document must include prescriptions which will limit logging to “generally small diameter” trees, as defined by species and location.

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<sup>2</sup> See Complaint, Center for Biological Diversity et al. v. U.S. Forest Service, Case No. 2:24-cv-297 (D. Utah Apr. 24, 2024), attached as Exhibit 1; letter of K. Groves, Ashley NF (July 2024) (withdrawing Aspen Restoration Project), attached as Exhibit 2.

**G. The Proposed Project is Likely to Adversely Impact the Unique Characteristics of Roadless Areas including Wilderness Characteristics.**

The Skyline HFRA project may harm the potential wilderness character of roadless lands. See EA at 63-64. Numerous statements are made which highlight this concern.

“Evidence of human activity could persist for 30 to 40 years” in the Big Horseshoe IRA, and therefore “the overall manageability of the wilderness attributes may decline due to [logging] treatments.”<sup>3</sup> EA at 64. *See also* Manti-La Sal NF, WORKSHEET 1 – Roadless Area Characteristics (Nov. 12, 2024) at 11 (“The Forest Service has also stated that “this project would reduce manageability as wilderness. Reduced manageability is primarily due to the extent of acres treated, percent of the IRA impacted, the amount of proposed forwarding trails, and the length of time wilderness attributes may be impacted.”).<sup>4</sup> “Approximately 34 miles of forwarding trails are proposed within Big Horseshoe IRA,” *id.*,<sup>5</sup> or more than three miles of forwarding trails per square mile of the portion of the IRA subject to logging. *See also id.* at 23 (“The prevalence of treatment activities would leave only smaller fragmented parcels of untreated areas. This would render Big Horseshoe IRA unmanageable as wilderness. Between previously approved treatments and Skyline proposed treatments, 47% of the IRA would be manipulated.”)<sup>6</sup>

Similar issues arise in the Heliotrope IRA. Logging treatments in the Heliotrope IRA “would render this IRA insufficient in size to be managed as wilderness. Remaining untreated acreage is so fragmented by treatment areas that opportunities to feel alone and to engage in primitive and unconfined recreation would be slow to return following treatment.” EA at 64. *See* Manti-La Sal NF, WORKSHEET 1 – Roadless Area Characteristics (Nov. 12, 2024) at 15 (within the Heliotrope IRA, “this project would reduce manageability as wilderness due to over half of the IRA receiving treatment, the extent of forwarding trails, and the length of time wilderness attributes may be impacted.”) *See also id.* at 23 (“Fifty-two percent of Heliotrope IRA is proposed to undergo treatment in Skyline HFRA, leaving only 1,896 acres of Heliotrope IRA untreated. This would render it insufficient in size to meet the minimum 5,000-acre criteria.”)

The Oak Creek IRA would also be subject to significant logging and road development which would both threaten violation of the Roadless Rule Logging treatments in the Oak Creek IRA: “this project would further reduce [this IRA’s] manageability as wilderness. Reduced manageability is primarily due to the extent of acres treated, percent of the IRA impacted, the amount of proposed forwarding trails, and the length of time wilderness attributes may be impacted.” EA at 64. *See* Manti-La Sal NF, WORKSHEET 1 – Roadless Area Characteristics (Nov. 12, 2024) at 16 (within the Oak Creek IRA, “The prevalence of

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<sup>3</sup> EA at 64

<sup>4</sup> Manti-La Sal NF, WORKSHEET 1 – Roadless Area Characteristics (Nov. 12, 2024), p. 11

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at 23.

treatment activities, situated in a way that leaves only small parcels of untreated areas would no longer be manageable as Wilderness due to it not meeting the size criteria of 5,000 acres. The 11,497 treated acres would no longer meet the naturalness criteria, at least for the foreseeable future (30-40 years).... [T]his project would reduce manageability as wilderness. Reduced manageability is primarily due to the extent of acres treated, percent of the IRA impacted, the amount of proposed forwarding trails, and the length of time wilderness attributes may be impacted.”). Note that the statement that this IRA is rated as having “low” manageability for wilderness is suspect given that one reason for that “low” rating includes “the existence of noticeable past vegetation treatments,” *id.* at 16, when that same page announces that “There are no noticeable vegetation treatments in this unit.” *See also id.* at 23 (“The prevalence of treatment activities would leave only smaller fragmented parcels of untreated areas, totaling 5,246 acres. This would render Oak Creek IRA unmanageable as wilderness. Sixty-nine percent of the IRA would be manipulated under this proposal.”)

Further, the Draft Decision Notice inconsistently states that “No significant short-term ... effects were identified in consideration of potential impact to ... recreation resources ... [or] IRAs.” EA at 83. It is arbitrary and capricious for the agency to conclude that the project will have “no significant short-term effects” to IRAs when the EA concludes that “short-term adverse effects are expected,” and that those impacts include eliminating the Heliotrope IRA’s manageability as wilderness, and reducing the manageability of other IRAs as wilderness for 30-40 years.

Proposed Resolution:

- Any subsequently prepared NEPA document, preferably an EIS, must address, and ensure compliance with, the Roadless Rule requirement that the project’s tree removal in IRAs will “maintain or improve” one or more roadless area value.

**I. Old Growth Tree Retention**

The EA fails to disclose and analyze the effects of vegetation treatments. Specifically, the EA fails to disclose the treatment of 58,650 acres targeted for mechanical harvesting.

The EA describes mechanical harvesting as occurring by any of three methods (conventional, high flotation, and aerial) to be used in stands with merchantable trees greater than 8 inches in diameter. EA at 3. The EA describes the objective of harvesting as “to reduce fuels by cutting and removing live and dead trees, while maximizing the retention of old-growth and larger trees and creating mosaics (clumps of retained older trees with openings).” EA at 3.

The EA acknowledges several definitions applicable to the project area for the definition of mature forest, old growth forest and old growth trees.

Mature forest is a stand with an average DBH of 18 inches or greater. EA at 31.

Old growth is a stand with an average DBH of 24 inches or greater. EA at 31.

Old growth spruce and fir in Utah is a tree with a diameter of 20 inches or greater. EA at 75.

Old growth Douglas-fire is a tree with a diameter of 24 inches or greater on good sites and 18 inches or greater on poorer sites. EA at 75.

However, the EA fails to define the terms old growth, old growth tree, large tree, or larger trees in its treatments or design features. Nor does the EA define what is meant by “maximizing the retention of old-growth and larger trees.”

To be clear, maximizing the retention of old growth and larger trees would involve the retention of all old growth and large trees, with specific exceptions for public safety considerations. Given the above definitions of old and mature trees, this would involve the retention of all trees larger than 18 inches diameter as large trees, all 24 inches in diameter as old growth, and all spruce 20 inches in diameter as old growth. However, the EA implies the opposite, that the Forest Service intends to remove old and large trees.

For example, the EA states explicitly that all live conifers will be removed within 66 feet of any live aspen of any size, with no qualification for the size of the conifer and with no analysis of the large-tree component within the stand.

Action 3: Remove all live conifers 66 feet from any live aspen. EA at 16.

The EA at page 24 includes the following Design Features for old growth...

To protect and enhance old growth timber stands in areas described in Characteristics Of Old-Growth Forests In The Intermountain Region USDA, 1993 and in compliance with Executive Order 14072, USDA, 2023, retain at least:

OG1. Spruce-fir stands, 25 trees per acre that are at least 20” in diameter and 220 years old.

OG2. Mixed Conifer stands, 11 trees per acre that are at least 29” in diameter and 256 years old.

OG3. Stable (non-seral) Aspen stands 10 trees per acre that are at least 12” in diameter and 100 years old.

OG4. Pinyon-Juniper Woodlands, 30 trees per acre that are at least 12” in root collar diameter and 200 years old.

The qualifier “at least” in the first sentence above is redundant and nonsensical if the project is intended to maximize the retention of old growth and larger trees. That is, if large and old trees are to be retained, the directive to retain *at least* a minimum number of large

and old trees makes no sense. Also, that same first sentence indicates that these design features apply only in areas that already qualify as old growth timber stands. This strongly implies that the project allows for the removal of old growth trees outside of these qualified areas.

At the same time, the EA contains no statements requiring retention of large or old trees outside of these minimum retention requirements. A review of the Design Features indicates only the same minimum retention requirements.

HS3. To meet both hydrologic and silvicultural needs, select large-diameter trees (the diameter at breast height will be greater than 20 inches) should be retained within riparian zones. EA at 20.

W7. Design vegetative treatments in Post-Fledgling Areas (PFA) to move toward or maintain Vegetative Structural Stage (VSS) 4, 5 and/or 6. Retention tree clumps should have 2 to 9 trees in the VSS 4, 5 or 6 size class with interlocking crowns... EA at 23.

The failure to retain all large and old trees is a potentially substantial impact, as indicated by multiple statements in the EA expressing that large and old trees are at a severe deficit within the project area.

Currently, 57 percent of the spruce-fir stands are within VSS 1, 39 percent are within VSS 2, and only 3 percent are within VSS 3, VSS4, VSS5, and VSS6. BA at 15.

There are no spruce-fir stands on the Manti-La Sal National Forest with mean stand diameters of  $\geq 24.0$ ." Stand structure has moved from mid-aged and mature classifications (VSS 4 and 5) to early and seedling classifications (VSS 1 and 2). BA at 15.

Many of the stands no longer contain trees with diameters greater than 12 inches. BA at 15.

Also, the EA states that the project area has experienced multiple impacts, including past management, that have reduced the large and old tree component of the forest.

Mechanical vegetation treatments, including timber harvest, dead spruce salvage, and fuels reduction projects have also impacted conditions within the project area. BA at 12.

Fifteen years ago, a spruce beetle epidemic caused over 90% mortality of spruce trees larger than 8 inches DBH across approximately 14,000 acres in the project area. Data from forest entomologists indicate that the impacts of insects and diseases on forests in the Wasatch Plateau have been increasing in duration and scale over the past 20 years. This trend mirrors the earlier spruce beetle epidemic

that started in 1985, which led to a 97% mortality rate in Engelmann spruce (Dymerski et al., 2001). EA at 31.

In addition, the stated purpose of the project includes the reduction of fire risk.

The purpose of the Skyline Healthy Forest Restoration Act (HFRA) Project is to reduce the risk and extent of, and increase the resilience to, insect and disease infestation; and to reduce hazardous fuels. EA at 10.

However, the EA contains no discussion of the fact that spruce-fir forests are adapted to stand-replacing fires and are not adapted to partial thinning. Nor does the EA contain any discussion of the fact that pinyon pine and ponderosa pine typically increase in fire-resistance with age and size, and that individual large and old trees of these species tend to be important as relatively fire-resistant components of the larger stand structure.

Furthermore, the EA contains no descriptions of the actual silvicultural treatments outside of the very general objectives.

Objective: To reduce fuels by cutting and removing live and dead trees, while maximizing the retention of old-growth and larger trees and creating mosaics (clumps of retained older trees with openings). This would reduce fuel loading and decrease the probability of ignition and the probability of large-scale stand replacing fire. Creating mosaics of diverse age classes would improve insect and disease resistance and resilience while also providing an early seral stage for wildlife habitat. Figure 3 is an average example of what treatments will look like (Mine timber sale 2018). Figure 4 is approximately five years post treatment. EA at 15.

Here there is obfuscation through the inclusion of two potentially contradictory statements. There is the stated objective of maximizing the retention of old growth and larger trees; in the same sentence there is a less clear objective of creating mosaics made up of clumps of retained older trees with openings.

This confusing and self-contradictory language in the EA seems deliberately designed to allow for the Forest Service to not maximize the retention of old and large trees, but rather to harvest a substantial component of the existing large and old trees, retaining only those large and old trees necessary to satisfy the minimum levels described in particular requirements.

In any case, the EA fails to describe the actual treatments in any way that would make them understandable to decisionmakers and the public; as such, the EA fails to disclose and analyze the impacts of those removals.

Looking closely at Figure 3 in the EA at 15, the treatment area example referred to in the above paragraph, there appear to be many large stumps, indicating the removal of large trees. Also, Figure 4, the proffered example of a treatment area five-years post-treatment, appears to consist largely of VSS 1,2, and 3. To fully understand the impacts of the treatment at such a location, it would be necessary to put it into the context of the surrounding landscape, a landscape that, according to the EA, has already experienced large-scale disturbances that have greatly reduced the composition of large trees and mature forest. This photo also shows substantial soil disturbance and ongoing erosion on steep slopes in multiple locations, presumably a result of the treatment.

*Proposed Resolution:*

- Any subsequently prepared NEPA document, preferably an EIS, must describe the mechanical thinning treatments with sufficient clarity to allow for disclosure and analysis of the project's impacts on the forest and the large and old growth component.
- Determine and disclose old growth status in areas that are proposed for treatment and analyze in detail what the effects of treatments would be on old-growth and the stand-level impacts related to the removal of large old trees.

## **II. Slope Analysis**

In our scoping comments, we raised concerns about treatments on slopes over 40% and sensitive soils. The EA and supporting documents acknowledge that the proposed action—and mechanical thinning on steep slopes, in particular—will disturb soils and increase erosion.

Proposed actions may disturb soil and remove protective cover, increasing erosion. Implementing BMPs and design features HS1-HS3 can help limit these effects, especially on moderate slopes (see design feature HS2). Additionally, mechanical timber harvest method includes the use of high flotation ground-based harvesting—operating up to 60 percent slopes including tracked self levelling machinery, tracked forwarders, and tethered machinery. As well as aerial harvesting—limited to elevations and slopes permitting equipment capability and feasibility. To reduce impacts on moderate slopes; equipment could include skyline systems, and helicopters. EA at 55-56.

In steep terrain (greater than 30-40% slope), slope failure and related surface erosion is a risk. Water and wind erosion hazard is minimal for undisturbed soils. When disturbed or vegetated cover is removed, soils are more susceptible to erosion. Special methods and erosion control best management practices may be

needed to prevent or limit soil loss on steeper landforms. Soils and Hydrology Effects Analysis at 6.

The Soils and Hydrology Effects Analysis further states that mechanical thinning, skidding, and road-building can result in degradation of water quality and in significant impacts on steep slopes.

Most of the soil disturbance from proposed actions would result from removing protective groundcover through equipment operations, skidding, temporary road construction, and by hydrophobic soil formation from prescribed burns. These processes may increase soil loss through accelerated wind and water erosion. BMPs and design features can reduce soil disturbance effects to the areas surrounding the project operations. BMPs and design features can reduce off-site effects more in the low to moderately steep areas, and with greater difficulty in steeper areas. Soils and Hydrology Effects Analysis at 6-7.

Watershed disturbances, which can alter discharge or sediment supply, may have adverse effects on stream stability, water quality, and aquatic habitat. These watershed disturbances include both natural events and human activities. Natural events include fire and floods. Land use activities include road building, water diversion or development, vegetation conversions (i.e., thinning or other application), grazing, recreation developments, mining, etc. Soils and Hydrology Effects Analysis at 8.

The Soils and Hydrology Effects Analysis includes the results of several analyses that indicate that the Forest Service has maps of soil and topography that allow for site-specific analysis of vulnerability to soil disturbance from mechanical operations. See, for example, Erosion Hazard Ratings, Hydrologic Soil Group, and Harvest Equipment Operability, in Soils and Hydrology Effects Analysis at 13, 14, and 15-16. The conclusions from each of these analyses is presented at the scale of individual acres. Further, all of these conclusions indicate that there are particular sites (at the acre-scale) that are especially vulnerable to mechanical operations and road-building, with potentially substantial and long-lasting effects.

The results of the Erosion Hazard Ratings indicate that 50% of the project area is rated as moderate or severe erosion hazard. Soils and Hydrology Effects Analysis at 13. The results of the Hydrological Soil Group analysis indicate that 90% of the project area is rated as having infiltration rates that cause increased runoff erosion. Soils and Hydrology Effects Analysis at 14. The results of the harvest Equipment Operability analysis indicate that 41% of the project area is rated as “poorly suited” for mechanical operations. Soils and Hydrology Effects Analysis at 16. These findings indicate that a substantial portion of the

project area—more than half of the area targeted for mechanical thinning, mastication, and road-building—is highly vulnerable to significant impacts from the proposed treatments.

Despite clearly identifying these potential effects, and despite indicating that the Forest Service has site-specific data to identify the location of these risks at the acre-level, the EA contains no map, definition, or analysis to identify the locations where mechanical thinning, mastication or roadbuilding are unsuitable. Instead, the EA refers to BMPs and the Design Features in the EA.

Proposed actions may disturb soil and remove protective cover, increasing erosion. Implementing BMPs and design features HS1-HS3 can help limit these effects, especially on moderate slopes (see design feature HS2). EA at 55.

The Design Features, in turn, largely refer to the Best Management Practices in Appendix B. The following are the three design features for hydrology and soils, in the EA at

HS1. Apply prescribed fire when conditions provide for low to moderate severity burning to ensure that the maximum amount of ground cover remains on the soil surface while meeting burn objectives.

HS2. Follow Hydrology Soil and Water Conservation Practices (SWCPs) (see Appendix B)

HS3. To meet both hydrologic and silvicultural needs, select large-diameter trees (the diameter at breast height will be greater than 20 inches) should be retained within riparian zones.

Design feature HS2 simply references Appendix B, the best management practices and soil and water conservation practices. The best management practices and conservation practices in Appendix B, for their part, simply state that treatment areas will be evaluated at a later date.

Following are the BMPs and SWCPs most relevant to identifying those areas where mechanical operations can have severe effects on steep slopes and vulnerable soils.

SWCP 11.04 Buffers are stipulated and where treatment is proposed, entry into a buffer for a specific management objective is approved by a hydrologist and authorized by the Timber Sale Administrator (TSA). Low compression equipment and minimal disturbance will be required.

SWCP 14.01 A Hydrologist has toured the sale area. All known areas of concern were visited, and the plan accommodates the hydrologist's recommendations. A

hydrologist will be consulted on any additional areas of concern that are found during sale layout or harvest.

SWCP 14.02 The SWCP states that requirements necessary to assure an acceptable level of protection for soil and water resources will be identified during the NEPA process; prescriptions will be designed to implement these requirements. Technical specialists will work with the pre-sale forester(s) during unit layout to avoid sensitive areas, adjust unit boundaries, and to develop specific measures to implement these SWCPs and other best management practices.

SWCP 14.05 Evaluated – landslide prone areas are present within the project area, but these areas will be avoided.

SWCP 13.02 High Flotation Equipment will not be used on slopes steeper than 60 percent. Slopes above 40 percent will require high flotation type equipment.

SWCP 14.05 Unstable areas are generally avoided; site-specific designs will be developed for areas that cannot be avoided. See SWCP 15.05.

SWCP 14.07 IDT and Pre Sale Forester (PSF) will identify general areas of tractor loggable ground during the timber sale planning process. PSF will prepare a Timber Sale Contract (TSC) that includes provisions stating areas and conditions by which tractors can operate.

SWCP 14.08 IDT specialists and PSF will identify sensitive areas during layout. The TSA will locate the skid trails with the timber purchaser or approve the purchaser's proposed locations prior to operation.

SWCP 15.05 Unstable areas are generally avoided. Avoid undercutting road-side slopes. Slumped or sloughed material will not be side-cast; it may be incorporated into the travel way or end-hauled to an area designated by the project administrator.

SWCP 15.10 Protective measures must be applied to all disturbed, erosion prone areas.

Taken individually and as a whole these best management practices, and the design features in the EA, essentially say simply that staff will determine at some later date what areas are vulnerable to extreme soil disturbance and will develop measures to mitigate those effects at that point. In deferring this analysis, the EA fails to take a hard look at the soil and water impacts of the mechanical operations and roadbuilding proposed in the EA. As a result, the EA similarly fails to analyze the impacts of measures to mitigate those impacts. Specifically, the EA fails to analyze the impacts of restricting mechanical thinning

and roadbuilding in those areas that are most vulnerable to soil disturbance. This is particularly frustrating and irresponsible given that, in its own analyses in the Soils and Hydrology Effects Analysis for the Skyline Project, the document apparently identifies those areas, at the scale of the individual acre.

Despite acknowledging the prevalence of soils and slopes highly vulnerable to disturbance from mechanical operations, the EA nonetheless includes ground-based harvesting on any and all of the 58,650 acres targeted for mechanical harvesting, up to 60 percent slopes, including within Inventoried Roadless Areas.

Mechanical Harvesting (approximately 58,650 acres) would be the priority in areas that have the highest concentrations of developments such as powerlines, waterlines, and other infrastructure. Treatments would occur on areas where vegetation is feasible to remove...Harvesting systems that may be used would include...High flotation ground-based harvesting, operating up to 60 percent slopes including tracked self levelling machinery, tracked forwarders, and tethered machinery. EA at 15

[H]abitat protection measures include using high flotation machinery and low ground pressure equipment when harvesting up to 50% of timber near streams. EA at 45.

Additionally, mechanical timber harvest method includes the use of high flotation ground-based harvesting- operating up to 60 percent slopes including tracked self levelling machinery, tracked forwarders, and tethered machinery. EA at 56.

The EA includes no analysis of the impacts of using tracked self levelling machinery, tracked forwarders, and tethered machinery on sensitive soils and high slopes. In fact, these systems have barely been tested in the Southwest on even the most accessible terrain. While approved for use in the Bill Williams Mountain EIS and the Flagstaff Watershed Protection Project EIS (FWPP) on the Kaibab and Coconino National Forests in Arizona, these harvesting systems have yet be deployed in those projects, in part because of the difficulties and costs associated with operating on steep terrain.<sup>7</sup>

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[http://azdailysun.com/news/local/flagstaff-area-forest-thinning-falters/article\\_c8b09d8b-98d4-5630-b03b-f21cf9504811.html#tracking-source=home-top-story](http://azdailysun.com/news/local/flagstaff-area-forest-thinning-falters/article_c8b09d8b-98d4-5630-b03b-f21cf9504811.html#tracking-source=home-top-story): “By the end of December, 642 acres of ponderosa pine forest near Schultz Creek and the base of Mount Elden were supposed to have been mechanically thinned as part of the Flagstaff Watershed Protection Project, or FWPP. Area trails were closed and neighbors were notified as the logging contractor ramped up operations at the end of the summer. But after cutting trees on just 20 acres, the contractor stopped work and never picked back up. The contract ended Dec. 31 with just 3 percent of the acreage completed....”

Without regional demonstration, there is no way that the Forest Service can meaningfully disclose and analyze the impacts of such systems on soil hydrology or stability, calling into question the current analysis. Nor can the Forest Service be sure that Design Features and Best Management Practices are adequate to mitigate impacts.

One study has investigated the use of steep-slope harvest systems in Southwestern mixed-conifer forests similar to the areas targeted for mechanical thinning in the Skyline Project. That study, Cram et al. (2007), classified “intermediate slopes” as those 10-25% slope, and “steep slopes” were those 26-43% slope, far short of the 60% slopes targeted in the Skyline Project. That study reported the following:

*“Percent slope affected harwarder [AKA “harvester forwarder”] travel-use patterns within a forest stand. Although overall percent disturbance caused by the harwarder was similar between steep and intermediate slopes, travel use on steep slopes often resulted in heavy disturbance... Results indicated increasing levels of disturbance, particularly where bare soil was exposed, had the greatest influence on runoff and sedimentation. Steep slopes with exposed mineral soil exhibited a fourfold increase in runoff and a 22 fold increase in sedimentation.”<sup>8</sup>*

That study found that the soil and hydrological impacts were not measurably worse than background erosion rates if the operations were limited to bare soil. However, this was on slopes up to a maximum of 43%, and the authors furthermore stated that “the heavy disturbance we observed and recorded on steep slopes appeared to be directly correlated with slopes  $\geq 30\%$ . As slope increased above 30% on our study sites, deep tire rutting appeared inevitable.”<sup>9</sup>

Proposed Resolution:

- Limit ground-based mechanical operations to 40 percent slopes or less.
- In subsequent NEPA documents include maps showing the areas identified in the Soils and Hydrology Effects Analysis as being vulnerable to impacts leading to compaction, rutting, or erosion. Identify these areas as off-limits to ground-based mechanical operation.
- Provide data from a study of the soil impacts of high-floatation harvesting equipment in an area with soils and climate similar to that in the Skyline Project area.

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<sup>8</sup> D.S. Cram, T.T. Baker, A.G. Fernald, A. Madrid, B. Rummer. Mechanical thinning impacts on runoff, infiltration, and sediment yield following fuel reduction treatments in southwestern dry mixed conifer forest. *Journal of Soil and Water Conservation*, Vol. 62(5): 359-366 (2007) At page 365.

<sup>9</sup> Cram et al, 2007, at 364.

### III. Seeding

In our comments we suggested that all planting and seeding undertaken as part of the Skyline HFRA project should consist only of native species. Design Feature R7 addresses the use of non-native seeds, and we would like further clarification regarding this Design Feature. This language is close to, but does not exactly align with, Forest Service Manual 2070. Further, the potential seed mixes listed in the supporting documents for this project include various nonnative species. In order to remedy this issue we provide a request below.

#### Proposed Resolution:

- Revise Design Feature R7 as follows (with proposed changes in red): Revegetate disturbed soil in a manner that optimizes plant establishment for that specific site unless ongoing disturbance at the site will prevent noxious weed establishment or spread. Revegetation may include planting, seeding, fertilization, and mulching. ~~Use native plant material where appropriate and available.~~ Native plant material will be given primary consideration. Non-native, non-invasive seed would only be used when timely reestablishment of a native plant community either through natural regeneration or with the use of native plant materials is not likely to occur, such as during emergency situations to stabilize soil, protect or restore water quality, or prevent the establishment of invasive species, when native seeds are not available. Select non-native plants may be used as temporary, non-persistent plant materials provided they will not hybridize with local species, will not permanently displace native species or offer serious long-term competition to the recovery of endemic plants, and are designed to aid in the re-establishment of native plant communities. Monitor and re-treat as needed until site is successfully revegetated according to the Forest Plan standards under Soil Resource Management (F00) (2c)(2B)(2C) and Soil and Water Conservation Practices (SWCPs) (see Appendix B). If the FS fails to revise the design feature, it must disclose the potential for exotic invasive species proliferating in treated areas.

### IV. The Forest Service Must Prepare an EIS.

NEPA requires federal agencies to prepare a full environmental impact statement (EIS) before undertaking “major Federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(C). Federal courts affirm this approach.

We have held that an EIS must be prepared if ‘substantial questions are raised as to whether a project ... may cause significant degradation to some human environmental factor.’ To trigger this requirement a ‘plaintiff need not show that significant effects will in fact occur,’ [but instead] raising ‘substantial questions whether a project may have a significant effect’ is sufficient.

*Idaho Sporting Cong. v. Thomas*, 137 F.3d 1146, 1149-50 (9th Cir. 1998) (citations omitted) (emphasis original). See also *Ocean Advocates v. U.S. Army Corps of Eng'rs*, 402 F.3d 846, 864-65 (9th Cir. 2005) ("To trigger this [EIS] requirement a plaintiff need not show that significant effects will in fact occur, but raising substantial questions whether a project may have a significant effect is sufficient." (internal quotations, citations, and alterations omitted)). Other circuit courts agree. "If the agency determines that its proposed action may 'significantly affect' the environment, the agency must prepare a detailed statement on the environmental impact of the proposed action in the form of an EIS." *Airport Neighbors Alliance v. U.S.*, 90 F.3d 426, 429 (10th Cir. 1996) (citation omitted) (emphasis added).

If an agency "decides not to prepare an EIS, it must put forth a convincing statement of reasons" that explains why the project will impact the environment no more than insignificantly. This account proves crucial to evaluating whether the [agency] took the requisite 'hard look.'" *Ocean Advoc.*, 402 F.3d at 864.

Pursuant to the Forest Service guidance, "significance" requires consideration of action's context and intensity. An agency must analyze the significance of the action in several contexts, including short- and long-term effects within the setting of the proposed action (including site-specific, local impacts). Forest Service Handbook - National Environmental Policy Act, FSH1909.15, Zero Code, section .05. Intensity refers to the severity of the impact and requires consideration of ten identified factors that may generally lead to a significance determination, including:

- (1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.
- (2) The degree to which the proposed action affects public health or safety.
- (3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.
- (4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.
- (5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
- (6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
- (7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

(8) The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

(9) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

With respect to the degree to which the environmental effects are likely to be highly controversial, the word “controversial” refers to situations where “substantial dispute exists as to the size, nature, or effect of the major federal action.” *Town of Cave Creek v. FAA*, 325 F.3d 320, 331 (D.C. Cir. 2003) (quoting *North American Wild Sheep v. U.S. Department of Agriculture*, 681 F.2d 1172, 1182 (9th Cir. 1982)) (emphasis in original). See also *Middle Rio Grande Conservancy Dist. v. Norton*, 294 F.3d 1220, 1229 (10th Cir. 2002) (same); *Town of Superior v. U.S. Fish and Wildlife Serv.*, 913 F. Supp. 2d 1087, 1120 (D. Colo. 2012) (same).

Here, the proposed project meets numerous standards for “significance. Because of its size and impact on sensitive species.

**A. Because the Skyline HFRA Project is so Large it will Adversely Impact the Unique Characteristics of the Area including Wilderness Characteristics.**

The Skyline HFRA project meets numerous standards for “significance”. The size of the project alone – involving logging (tree removal) across 100,000 acres – is significant. The area to be logged is more than twice the size of the District of Columbia. It’s the size of more than 75,000 football fields.

The Skyline HFRA project area has unique characteristics including its habitat for flammulated owls, goshawk and three-toed woodpecker, and the fact that it is largely roadless. As we stated in our comments on scoping, all of these unique and sensitive values may be at risk from various aspects of the proposed action including logging, road maintenance, road use, and fire.

As discussed in detail above, the Skyline HFRA project may harm the potential wilderness character of roadless lands. See EA at 63-64. Numerous statements made in the EA and the Manti-La Sal NF WORKSHEET 1 (on Roadless Area Characteristics) emphasize this concern. In these documents the agency recognizes that this project would reduce the manageability of Roadless areas as wilderness due to the project’s size, the number of forwarding trails

proposed, and “the length of time wilderness attributes may be impacted.”<sup>10</sup> Further, the EA states “the overall manageability of the wilderness attributes may decline due to [logging] treatments.” EA at 64.

The EA concludes: “While short-term adverse effects are expected, long-term benefits include accelerated ecological recovery and improved watershed health, ultimately restoring mature forest ecosystems faster than natural regeneration processes would allow.” EA at 64; *See also id.* at 65 (“The need for treatment both within and near the IRAs greatly surpasses potential adverse impacts, as these IRAs sit at the headwaters of canyons that are crucial to Sanpete County’s primary water supply.”); *id.* (“The overall cumulative impact of the Skyline HFRA project and previous wildfire management efforts are designed to preserve and restore ecosystem health, thereby lowering the risk of future uncharacteristic wildfires despite the immediate adverse consequences.”). This is exactly the kind of trade-off - weighing relative impacts; short-term harm v. long-term benefits - that indicate an EIS is necessary. Further, 40 years - more than a generation - hardly seems “short-term.”

#### **B. The Agency Must Prepare an EIS Because the Skyline HFRA Threatens a Violation of Federal Law Including the Roadless Rule and the National Forest Management Act.**

As detailed extensively above, the project threatens a violation of the Roadless Rule, a law meant to protect the environment. It does so by, among other things, failing to ensure that logging in IRAs will only remove generally small diameter trees, allowing unlawful road construction, and inadequately regulating the frequency of timber removal.

The proposed project also threatens a potential violation of the National Forest Management Act (NFMA). NFMA requires the Forest Service to develop a Land Management Plan. 16 U.S.C § 1604(a). Once the plan is approved, site-specific projects must be consistent with it. 16 U.S.C § 1604(i) (“Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans.”); 36 C.F.R. § 219.15(d) (“every project and activity must be consistent with the applicable plan components.”). Here, the proposed project will violate the Forest Plan Management Direction for Visual Quality. The Forest Service Plan General Direction provides that, “Forest resource uses or activities should meet the adopted VQO as displayed on the Planned Visual Quality Objective Map (reduced copy in Appendix F).”<sup>11</sup> However, logging and “trail” construction will result in parts of the Forest no longer meeting this direction. Within the East Mountain IRA, “[t]here are 276 acres with a VQO of

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<sup>10</sup> Manti-La Sal NF, WORKSHEET 1 – Roadless Area Characteristics (Nov. 12, 2024), p. 11, 23, 64.

<sup>11</sup> 1986 Manti-La Sal Forest

Retention. These treated acres would no longer meet this objective.”<sup>12</sup> Similarly, “large sections of the treatment areas within White Knoll IRA are within the viewshed from the main Orangeville/Ephraim Road. There are 1,326 acres with a VQO of Retention. These treated acres would no longer meet this objective. It may take 30-40 years before these acres are recovered again to the point to meet this VQO objective.”<sup>13</sup> Because the proposed action threatens a violation of the Forest Plan VQO objectives and a violation of NFMA’s consistency requirement, the Agency must prepare an environmental impact statement.

### **C. The Agency Must Prepare an EIS Pursuant to Forest Service Regulations Because the Proposed Action will Substantially Alter Inventoried Roadless Areas.**

Pursuant to 36 C.F.R. § 220.5(a)(2), “proposals that would substantially alter the undeveloped character of an inventoried roadless area or a potential wilderness area” are amongst the class of actions normally requiring an EIS.” The regulation further specifies that, “constructing roads and harvesting timber in an inventoried roadless area where the proposed road and harvest units impact a substantial part of the inventoried roadless area” are the types of activities that substantially alter the roadless character of an IRA. As noted above, this project clearly involves substantial alteration of the undeveloped character of inventoried roadless areas. The proposed project would facilitate development of more than 300 miles of trail-like roads in IRAs, degrade their natural qualities, and allow for substantial timber harvest. The Forest Service must prepare an EIS or exclude IRAs from the proposed action.

#### **Proposed Resolution:**

- The Manti-La Sal NF should prepare an EIS to fully disclose the impacts of the Skyline HFRA project.

### **Conclusion**

The Grand Canyon Trust, Center for Biological Diversity, and Western Watersheds Project appreciate your consideration of the information and concerns raised in our comments and highlighted in this objection.

We request a meeting to discuss potential resolution of issues raised in this objection, pursuant to 36 C.F.R. § 218.11(a). We hope that the Forest Service will use the objection

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<sup>12</sup> Manti-La Sal NF, WORKSHEET 1 – Roadless Area Characteristics (Nov. 12, 2024) at 14.

<sup>13</sup> Manti-La Sal NF, WORKSHEET 1 – Roadless Area Characteristics (Nov. 12, 2024) at 18.

process and such a meeting as opportunities to engage with stakeholders, including the objectors here, to develop a project that is legally and ecologically sound.

Sincerely,



Kaya McAlister  
Utah Public Lands Manager  
Grand Canyon Trust  
Duck Creek Village, UT 84720  
928.286-3393  
[kmcalister@grandcanyontrust.org](mailto:kmcalister@grandcanyontrust.org)

Edward B. Zukoski, Senior Attorney  
Center for Biological Diversity  
Denver, CO 80202  
303-641-3149  
[tzukoski@biologicaldiversity.org](mailto:tzukoski@biologicaldiversity.org)

Laura Welp  
Ecosystems Specialist  
Western Watersheds Project  
McCleary, WA 98557  
435-899-0204  
[laura@westernwatersheds.org](mailto:laura@westernwatersheds.org)

## EXHIBITS

- Exhibit 1. Complaint, Center for Biological Diversity et al. v. U.S. Forest Service, Case No. 2:24-cv-297 (D. Utah Apr. 24, 2024)
- Exhibit 2. Letter of K. Groves, Ashley NF (July 2024)
- Exhibit 3. D.S. Cram, T.T. Baker, A.G. Fernald, A. Madrid, B. Rummer. Mechanical thinning impacts on runoff, infiltration, and sediment yield following fuel reduction treatments in southwestern dry mixed conifer forest. *Journal of Soil and Water Conservation*, Vol. 62(5): 359-366 (2007).  
<https://research.fs.usda.gov/treesearch/29404>