



26 January, 2017

Forest Supervisor Lisa Northrop  
Mt. Hood National Forest  
16400 Champion Way, Sandy, OR 97055

Submitted via email:  
*comments-pacificnorthwest-mthood@fs.fed.us*

Dear Supervisor Northrop,

Thank you for the opportunity to comment on the Cooper Spur/Mt. Hood Meadows Land Exchange Draft Environmental Impact Statement (DEIS). Please accept these comments on behalf of the following organizations that are part of the Cooper Spur Wild & Free Coalition: Lower Columbia Canoe Club, Bark, Oregon Wild, Hood River Valley Residents Committee, Friends of Mt. Hood, Oregon Kayak & Canoe Club, Portland Chapter of the Sierra Club and Mazamas. As you know, the organizations in this coalition have been working on issues related to protecting the Copper Spur area for almost twenty years.

This land exchange resulted from years of negotiations between committed stakeholders, who worked together to craft specific provisions for the 2009 Omnibus Bill Act to protecting as much of the North side of Mt. Hood as possible. The goal of the Act is to protect the Wilderness quality lands on the North side, the Crystal Springs drinking watershed, and the surrounding forestlands while allowing the Inn at Cooper Spur and the Cooper Spur Ski Area to continue operations in their current size and configuration. Protecting the North side of Mt. Hood is the central purpose of the Act and this provides direction for determining how best the Forest Service can serve the public's interest and fulfil the intent of the Act.

We can all agree that the Cooper Spur & Crystal Spring area is a special place, rich with history, backcountry recreation opportunities, important drinking water sources, species habitat, and more. We support this Land Exchange moving forward so as to provide special protection for the north side of Mt. Hood, and we appreciate the good work and clear information provided in the DEIS.

We write to share a few important concerns with certain parts of the analysis for the land exchange and we ask that the Forest Service resolve these issues in the final EIS.

## 1) Amendments to the Mt. Hood Land & Resource Management Plan (“Forest Plan”).

In order to comply with the direction included in the Omnibus Act, the proposed action includes a programmatic amendment to the Forest Plan in order to assign land use allocations to the newly acquired land, change the land use allocations for the wilderness addition and the Crystal Springs Watershed Special Resource Management Unit, and add standards and guidelines for the Crystal Springs Watershed Special Resource Management Unit. *Draft Environmental Impact Statement (DEIS) at 47.*

### a) Forest Service should use the 2012 NFMA regulations to analyze the Forest Plan amendments

The National Forest Management Act requires that Forest Plans be revised “from time to time when the Secretary finds conditions in a unit have significantly changed, but at *least every fifteen years.*”<sup>1</sup> As Mt. Hood National Forest (MHNH) itself has noted, an important aspect of keeping the Forest Plan an up-to-date, living document is the preparation of amendments.<sup>2</sup> As the MHNH Forest Plan is 27 years old, amending it to bring it into compliance with changing management in a changing forest is a step in the direction of a better, up-to-date Forest Plan.

However, by choosing to update the Forest Plan using the outdated 1982 NFMA regulations, MHNH is squandering a great opportunity to begin the much-needed revision of the Forest Plan under the new NFMA regulations. The USDA’s intent when developing the 2012 planning rule was for the planning process to encourage and support the more regular use of amendments to keep plans current between revisions. *Federal Register Notice, Volume 81, no. 241. December 15, 2016.* The use of more frequent amendments would also make the revision process less cumbersome because plans would not become as out-of-date between revisions. *Id.*

While the Forest Service is correct that a plan amendment initiated before May 9, 2012 may be completed in conformance with the provisions of the prior planning regulation, this clause was to ensure that *ongoing* planning processes would not have to change to new regulations mid-stride. While the initial scoping for this project began in 2010, it then lay relatively dormant for the next six years. The Forest Service re-initiated scoping in spring of 2016, and the writing of the Forest Plan Amendments followed thereafter. Thus, there is no practical reason for the Forest Service to use the 1982 NFMA planning regulations.

We advocate for the Final EIS to include the analysis necessary under the 2012 planning regulations. This process is more comprehensive and takes into account issues such as climate change and carbon storage, which are conspicuously lacking from the current Forest Plan. Not only would using the 2012 regulations for the amendment improve the substance of the Forest Plan amendments (and the analysis needed to make them) it would provide both MHNH and the public with the opportunity to experience the new planning regulations in practice and gear up for more robust amendments and/or the long awaited Forest Plan revision.

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<sup>1</sup> 16 U.S.C. § 1604(f)(5) (emphasis added).

<sup>2</sup> USDA Forest Service, List of Amendments to Mt. Hood LRMP (2010).

**b) Some of the standards and guidelines for the new A14 land allocation do not comply with the language and intent of the 2009 Omnibus Bill.**

As part of this project, the Forest Plan would be amended to create a newly developed land use allocation: A14-Crystal Springs Watershed Special Resources Management Unit. *DEIS at 49*. While we appreciate the creation of this new land designation, we submit that some of the proposed standards and guidelines do not follow the legislative direction of the 2009 Omnibus Bill. Of particular concern are the following guidelines associated with road building:

**K. Transportation Systems/Facilities; Travel and Access Management**

1. New road construction and renovation of existing roads shall only be permitted to provide for public health and safety.

2. Temporary roads may be used to further the Goals of the Management Unit and should be reclaimed upon use. *DEIS at 55*.

K.1. is problematic because it is an exact quote from the Omnibus Bill, *but for* the omission one very important word: “non-system”. The actual language of the Omnibus Bill is as follows, “new road construction and renovation of existing **non-system** roads shall only be permitted to provide for public health and safety.” *See* §1205(A)(5)(a). “Existing non-system roads” is not defined by the Roadless Rule or the Travel Management Rule, but a common sense definition is: a road that exists on the landscape and is not part of the Forest Service Road System. As there are many miles of such “non-system” roads in the new A14 land allocation, it is essential that the amendment accurately include the Omnibus Bill’s prohibition on rebuilding non-system roads, except as necessary for public health and safety.

K.2. is confusing, as the only active verb is “use” in relation to temporary roads. If this means the Forest Service can use temporary (non-system) roads that already exist, we believe that is within the legislative direction of the Omnibus Bill. However, if MHN’s definition of “use” includes “build”, it is at odds with both the Omnibus Bill and the relevant regulatory framework.

Calling a road “temporary” does not absolve it from still being considered a road. Indeed, trying to do so would be an improper interpretation of the regulations governing roads and transportation management in the National Forest System.

There are two active regulatory definitions of Forest Service roads – one that explicitly includes temporary roads in its definition, and one that implicitly does. As defined by the Roadless Rule, the most comprehensive assessment of roads and their impacts on National Forests, a Road is “a motor vehicle travelway over 50 inches wide, unless designated and managed as a trail. A road may be classified, unclassified, or **temporary**.” 36 CFR §294.11. Road construction is defined as “Activity that results in the addition of forest classified or temporary road miles.” *Id.*

The Travel Management Rule, incorporated into Forest Service Manual 7705, also contains applicable definitions: A Road is “a motor vehicle travelway over 50 inches wide, unless designated and managed as a trail.” 36 CFR §212.1. Temporary Road or Trail: “A road or trail necessary for emergency operations or authorized by contract, permit, lease, or other written authorization that is not a forest road or a forest trail and that is not included in a forest transportation atlas.” *Id.*

While the Travel Management Rule's definition of road does not explicitly include temporary road, neither does it exclude them. In addition, the definition of "temporary road" begins with affirming that it is, indeed, a road. The 2009 Omnibus Bill prohibits new road building in the Crystal Springs Management unit, period. It does not specify that the road building need be a system road, or be permanent, simply that it be a road. Thus while existing temporary roads may be *used*, by the language of the Omnibus Bill they may be neither renovated or built.

We ask that you ensure the language in the A14 land allocation reflects the plain language and intent of the 2009 Omnibus Bill as regards roads and transportation management.

## **2) Determining equal value for land exchange and prioritizing parcels for equalization.**

The first step in the appraisal for the forthcoming land exchange should be to determine the highest and best use of the property, which directly informs its market value. We request that the Forest Service appraiser determine what is: (1) financially feasible, (2) legally allowable, and (3) physically possible on the lands that are a part of this exchange. Based on the guidance provided by the Clackamas County planning department, we believe the DEIS underestimates the maximum number of lots/units that can be created/built on the Government Camp property. The DEIS is misdirected in this regard, and the both the appraiser and the FEIS need to account for the legal opinion of Clackamas County as what is legally allowable on the land in Government Camp, as it greatly influences the appraised value.

The purpose of the Omnibus Act of 2009 was to protect as much forestland on the north side of Mt. Hood National Forest as possible. Given the direction provided by the Act and the need to protect the public interest that is at stake, the Forest Service must consider a range of alternatives for equalizing the value of the land that serves the public interest. If Mt. Hood Meadows' land and business holdings on the North side are worth more than the public land in Government Camp then the Forest Service must disclose, discuss and analyze alternative that have Mt. Hood Meadows retain properties in the following order of priority:

1. Continued ownership of the 50 acres of the newly configured Cooper Spur Ski Area ("part of the Cooper Spur Mountain Resort") on the same terms; and then next, if necessary,
2. Continued ownership and operation of 2.84 acres upon which the Inn at Cooper Spur (part of the "Cooper Spur Mountain Resort") is located; and then,
3. Retention of the smallest possible amount of forested land.

As part of examining feasible alternatives for equalization, the Forest Service must consider alternative(s) that provide equalization, in whole or in part, by Mt. Hood Meadows donating to equalize the value of the land exchange. The Clarification Act contains language allowing for equalization through donation, and the Forest Service should analyze this as part of its reasonable range of alternatives.

Finally, the public needs a chance to weigh in on the equalization of the deal. The Forest Service should share the appraisal with the public as soon as it is completed so that people can scrutinize it and provide input *prior to* the time that the agency releases the final environmental impact statement.

**3) The DEIS did not sufficiently analyze the land exchange as it relates to climate change**

The Council of Environmental Quality (CEQ) recently issued its final guidance for Federal agencies on how to consider the impacts of their actions on climate change in their NEPA reviews.<sup>3</sup> This guidance recommends that Federal agencies analyze: (1) a proposed action's effects on greenhouse gas emissions, commensurate with the extent of the effects of the proposed action, and (2) the effects of climate change relevant to a proposed action – particularly how climate change may change an action's environmental effects. *DEIS at 87-88*

The very brief analysis in the DEIS about climate change only looks at question #1 – the project's contributions to climate change (minimal), but not #2 – how climate change may affect the project area(s). As the environmental impacts of the project may be affected by climate uncertainty, it is essential that the Forest Service comply with the CEQ guidance and discuss how Mt. Hood's changing climate may influence the impacts of the land exchange.

For example, climate change is predicted to result in more flood events and fires across the Pacific Northwest.<sup>4</sup> Many Oregon streams will experience higher winter flow and reduced summer flows as temperature rises and the variability of precipitation increases. Analysis of historic data show that warmer temperatures at higher elevations result in a shift in the form of precipitation toward more rain and less snow. Significant declines in snow water equivalent in the Pacific Northwest and a shift from snow to rain coinciding with increases in temperature since the 1950s are well documented and this change has been related to trends in hydrologic response.

Most watersheds on the western slope of the Oregon Cascades encompass elevations that receive winter precipitation as a mixture of rain and snow. These watersheds have complex winter hydrographs that are dependent on the distribution of rain and snow during individual events, which in turn is controlled by storm temperatures and catchment hypsometry. Snow cover typically accumulates at temperatures close to the melting point, and thus is at risk from climate warming because temperature affects both the rate of snowmelt and the phase of precipitation. With a projected 2°C winter warming by mid-century, 9200 km<sup>2</sup> of currently snow-covered area in the Pacific Northwest would receive winter rainfall instead.<sup>5</sup>

The timing and type of precipitation is likely to change, leading to more rainfall instead of snowfall and more rain-on-snow events, and snowmelt could occur at earlier times and in higher volumes over shorter periods of time if average temperatures and sun exposure increase, altering peak and low-flow patterns for streams.<sup>6</sup> In the DEIS please describe the aquatic and recreation impacts of this land exchange in a future where the transient snow zone has expanded, there is less snow to support winter recreation at current levels, and rain on snow events have become more common in both Government Camp and Cooper Spur.

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<sup>3</sup> Council on Environmental Quality, Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews, August 1, 2016.

<sup>4</sup> USDA Forest Service, Pacific Northwest Region, Aquatic and Riparian Conservation Strategy, p. 30 (2008).

<sup>5</sup> Heejun Chang, Julia Jones, *Climate Change & Freshwater Resources in Oregon*, Oregon Climate Change Research Institute, Oregon Climate Assessment Report, College of Oceanic and Atmospheric Sciences, Oregon State University, Corvallis, OR (2010) at 84.

<sup>6</sup> USDA Forest Service, Pacific Northwest Region, Aquatic and Riparian Conservation Strategy, p. 30 (2008).

Thank you for your consideration of these comments. As always, we look forward to working with you to ensure the best possible management for the North side of Mt. Hood.

For a wild and free Cooper Spur,

A handwritten signature in black ink that reads "Brenna Bell". The signature is written in a cursive style with a long, sweeping tail on the letter "l".

Brenna Bell, *for*

Bark  
Friends of Mt. Hood  
Hood River Valley Residents Committee  
Lower Columbia Canoe Club  
Mazamas  
Oregon Kayak & Canoe Club  
Oregon Wild  
Portland Chapter of the Sierra Club