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Date: JAN 19 2016

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CERTIFIED RETURN REQUEST:  
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Dear Ms. Bell and Mr. Krochta:

This letter is in response to your objection (#16-06-00-0011-218(B)) to the draft Decision Notice (DN) and Finding of No Significant Impact (FONSI) for the Lemiti Fuels Reduction Project located on the Clackamas River Ranger District, Mt. Hood National Forest. I have read your objection and reviewed the project record, the draft DN/FONSI, and the final Environmental Assessment (EA). My review of your objection was conducted in accordance with the regulation at 36 CFR 218 (2013).

## PROJECT DESCRIPTION

On September 15, 2015 the legal notice was published announcing the public notice of a draft DN and FONSI and objection period for the Lemiti Fuels Reduction Project in the *Oregonian*. This draft DN/FONSI proposes to authorize the following:

- Fuel treatment harvest – The dead lodgepole pine trees would be cut and removed on 1,262 acres. Additional live trees would also be removed in some areas, leaving the largest trees at approximately 60 to 80 square feet of basal area. While the logs would be removed and utilized, additional fuel treatment would include the yarding of tree tops (bringing the tops and branches in to the landing attached to the yarded logs) and other slash treatments where needed to reduce fuels to the desired level of 10 to 15 tons per acre. Forage plants would be seeded or planted to enhance forage quantity and quality.
- Fuel break units – Additional fuel break treatments would occur on 66 acres. These fuel break treatments would occur along primary roads and along the reservation boundary. There would be additional emphasis on the treatment of slash, the thinning of live trees to a 12-foot spacing and pruning to reduce ladder fuels. (Approximately 26 acres overlap the 1,262 acres of fuel treatment harvest units).
- Sapling thinning – While sapling thinning would occur where appropriate in the areas described above, there is an additional sapling treatment area where no logging would occur. Where hand treatment is prescribed on 130 acres, saplings would be hand cut to a 15-foot spacing and piled for later burning.



- Roads - Road work is proposed for Forest Service system roads. This road work is needed to access the proposed treatments. The project area is bisected by two different routes that access the popular Olallie Lake Scenic Area: 4690 and 4220. There are road maintenance and repair needs on these and other roads that are part of the proposed action. The project would grind the pavement on a rough section of road 4220 and improve the unpaved section. Even though Lemiti Creek is dry in the summer season, it flows with considerable snowmelt in the spring and the culverts on the three road crossings are not large enough to accommodate anticipated flood waters. The project includes the replacement of culverts on 4220 and 4680 and the removal of the crossing on 4220125.
  - Approximately 3.8 miles of new temporary road would be constructed and rehabilitated; 1.6 miles of existing road alignments that were once system roads would be reused as temporary roads, then rehabilitated; 1.9 miles of existing road alignments that were once temporary roads would be reused as temporary roads, then rehabilitated;
- Forest Plan Amendment - To achieve the purpose and need, a project specific Forest Plan amendment is proposed for some standards and guidelines. These standards and guidelines cannot be fully met especially in the short term, while meeting the purpose and need for action, given the existing mortality. The changes included in this Forest Plan amendment are not permanent and are limited geographically to only the treatments proposed for this project.
- Project Design Criteria in section 2.2.6 of the EA are mandatory. No significant impacts were found that would require further mitigation.

## **OBJECTION ISSUE DISCUSSION**

Specific to your objection, you raised issues regarding public engagement, scientific findings, project consistency, impacts from temporary road construction and harvest, diameter limits, and the inclusion of units 14 and 22. I am enclosing a written response to your objection issues and those raised by co-objectors Oregon Wild and Mt. Hood Study Group. My final response to the Responsible Official is summarized below.

## **RESPONSE**

While a resolution meeting was held, no resolution was reached. The dialogue at the resolution meeting focused on units 14 and 22. While I understand that you are concerned that the largest trees will not be retained, I believe that the prescription calls for retention of large trees and retention of species other than lodgepole pine. The silviculturist has reviewed the stand information; the tree species in these two units that would be retained include mountain hemlock, Douglas-fir and western white pine. Diameters range from 6" to 15". Thus, the largest trees that include species other than lodgepole pine would be retained. I feel confident that the prescriptions would result in the outcomes described in the EA. Thus, I believe that the Responsible Official has sound rationale for proposing action in this area, based on past fire occurrence and the potential for this area to be adversely affected in the future.

Specific to your objection, I conducted my review of the record, final EA, response to comments and draft DN/FONSI. Based on my review, I conclude the following:

- The draft decision clearly describes the actions to be taken in sufficient detail that the reader can easily understand what will occur as a result of the draft decision.
- The draft decision considered a range of alternatives that was adequate to respond to the Purpose and Need. The purpose and need and alternatives considered in the EA reflect a reasonable range of alternatives, consistent with law, regulation and policy.
- The draft decision is consistent with or moves toward attainment of Forest Plan standards and guidelines.
- The draft decision is consistent with all policy, law, direction, and supporting evidence. The record contains site-specific documentation regarding resource conditions, and the Responsible Official's draft decision document is based on the record and reflects a reasonable conclusion.

This concludes my written review of the project. By copy of this letter and the enclosed response document, I am providing written instructions to the Responsible Official; she may sign her decision as soon as she has finalized it and completed the written instructions, then notify interested and affected persons in accordance with the regulation at 36 CFR 218.12 and 36 CFR 220.7(d). This written response is the final administrative review by the Forest Service or the Department of Agriculture [36 CFR 218.10(b)(2)].

Sincerely,



BECKI HEATH  
Deputy Regional Forester  
Objection Reviewing Officer

cc: Lisa Northrop, Nancy Lankford, Jackie Groce, Michelle Lombardo, Jim Roden, Debbie Anderson

Enclosure

**Lemiti Fuels Reduction Project and Forest Plan Amendment #19**  
**Clackamas River Ranger District**  
**Mt. Hood National Forest**  
**Objection Statement and Responses**  
**December 2015/January 2016**

**Objector**

BARK/Oregon Wild/Mt. Hood Study Group (BK)

**Objection Number**

#16-06-00-0011-218(B)

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***Public Engagement***

**Overview and Objector's Suggested Remedy:** This objection issue focuses on the objector's request to have more direct responses to public input. No specific remedy was suggested, although objector requested the Forest take the issue of substantively engaging and responding to public comments seriously.

**Objector Statement #1:** Objector states the Forest released the Environmental Assessment (EA) and the draft Decision Notice (DN) less than a week after the close of the comment period. The objector states that no changes were made to the EA despite the extensive comments received from "many well-informed individuals and organizations, including Objectors" and despite their request to change the project to address their concerns. Because of this, the objector believes that the public comment period was "merely a formality the agency had to follow." BK at 3 and 4.

**Response:** I find that the EA and draft Decision Notice were issued in accordance with regulations, and that comments received were adequately considered.

The Code of Federal Regulation (CFR) at 36 CFR 218.25(b) addresses consideration of comments in an EA and states that "(1) The responsible official shall consider all written comments submitted in compliance with paragraph (a) of this Section; and (2) All written comments received by the responsible official shall be placed in the project file and shall become a matter of public record."

The regulation at 36 CFR 218.25(a) defines the required length of the comment period on the preliminary EA; it does not identify a required time period for the Agency to consider comments and make adjustments (if needed) to the EA or draft Decision Notice.

The project record documents over 3 years of project development, public input and dialogue beginning in 2006 with the Confederated Tribes of Warm Springs, and two public scoping periods and two field trips in 2012 and 2013. The Responsible Official continued to mold the proposed action based on public comment during this time period and also explained (in more detail than required), rationale for why some comments were not applicable to the project. EA at 14 and Appendix B. Over the course of project development, the Agency incorporated substantive comments into the project design and was able to review and address any new comments brought forward during the preliminary EA comment period quickly. EA at 17-18 and draft Decision Notice at 8. It is noted that the EA that was circulated for objection includes additional language regarding fire science to address concerns brought forward by the objectors. EA at 55-57.

The record shows that comments were due on September 8, 2015. Comments were received from Oregon Wild and AFRC prior to that date, while comments from Bark were received on September 4,

2015. The legal notice for objection was published on September 16, 2015. This means that the Forest had a work week to address and consider comments. Further review of the record shows that the comments received had similarities to those that were raised in scoping, which expedited the Forest's ability to respond.

The Forest documented responses to all comments received (Appendix B) and posted those responses to the project's website, further documenting that proper procedures in accordance with the regulations were followed.

**Objector Statement #2:** Objector believes that the Forest was "spectacularly uninterested in the public's input into the project" and that the response to comments was "dismissive at best" because "not one substantive comment got positive reception" as indicated by the quick turn-around from preliminary to final EA and draft decision. BK at 4. Objector believes that this one-sided communication approach does not meet the intent of NEPA's intent to create two-way communications between federal agencies and the public. BK at 4. Overall, objector believes that the Forest would rather not engage their staff or volunteers and views the objectors as obstacles instead of allies that can lead to better management of the Forest. BK at 4.

**Response:** I find that the Responsible Official adequately considered the objector's comments and concerns about public engagement and modified the proposed action over time in consideration of those comments. In the event a recommendation was not used to modify the proposed action, sound rationale was used and displayed in the response to comments.

See response to Objector Statement #1. In my review of the Lemiti Fuels Reduction Project Record, I did not recognize any area where the Responsible Official was "dismissive" with the objector's comments. Public input to the project was considered by the interdisciplinary team and Responsible Official, regardless of who or what group submitted them. Additionally, the Responsible Official further elaborated her rationale for not considering alternatives proposed by the objectors in the draft DN at 10-13. Taken together, the objectors suggestions could have resulted a refocus of fuels treatments on less than 200 of the approximately 3,000 acre planning area, resulting in a project that would not meet the purpose and need of reducing hazardous fuels, enhancing firefighter safety, and increasing forest productivity.

**Final Remedy/Resolution for Public Engagement:** Based on the information in the record, the EA and draft DN, I find the response to comments and public involvement for this project is sufficient and no remedy or resolution is needed.

### ***Scientific Findings***

**Overview and Objector's Suggested Remedy:** This objection issue focuses on the science used to correlate pine beetle infestations with increased fire severity or frequency. Suggested remedy is to provide a "thorough, unbiased review of the applicable science in the final decision, where the Forest Service explains the conclusions it has drawn from its chosen methodology, and the reasons it considers the underlying evidence to be reliable."

**Objector Statement #3:** The objector objects to the "clear misrepresentation of the scientific findings on the correlation between beetle outbreaks and fire, and the lack of substantive engagement to the research provided." The objectors state the Forest violates NEPA when they fail to "disclose that their



analysis contains incomplete information.” The objector believes the EA does not comply with the spirit or letter of the law because the EA “ignores or misrepresents the current body of scientific research regarding the relationship between beetle-killed trees and fire, and bases its decision on unsupported, anecdotal information.” BK at 5. The objector believes the Forest avoided addressing their comment which summarized and cited Meigs (2015) by stating that “the objector did not provide the document cited.” The objector believes, instead, that a commenter is not required to provide the actual study they are referencing and that is actually a requirement of the post-decision objection process. BK at 6. The objector believes it is arbitrary and capricious of the Forest to disregard, or misrepresent, the body of science that contradicts the proposal and does not comply with NEPA’s direction to provide complete information. BK at 7.

**Response:** I find that the Responsible Official used appropriate documentation to support her findings and accurately disclosed analysis and information sources related to the Lemiti Project.

The regulation at 36 CFR 220.7(b)(3)(iv) directs the agency to discuss the impacts of the proposed action and any alternatives. Forest Service policy (June 20, 2007) directs the Responsible Official to base their decision on technically sound science.

The Lemiti Fuels Reduction project displayed an unbiased analysis through the use of a variety of reference types (EA preparers and reference list at 187 to 194) and considered all references brought forward during scoping and during the formal comment period (EA Appendix B). Specifically, the references that were used in the Lemiti Project were academic articles, professional organization articles, government agency articles, past NEPA decisions, and professional experience (education, past training, years of experience, and certification knowledge). The Responsible Official and the resource specialists surfaced the best available science from various mediums and adequately met the best available science provisions of the Forest Service guiding regulation and policy. In addition, the Responsible Official responded to and therefore showed consideration of opposing viewpoints that were brought up during the comment period in two separate locations, the EA at 55-57 and in the Project Record (Bark’s Science Citations). I also note that the Responsible Official detailed project design criteria and mitigation measures, which minimize the potential adverse environmental effects from the project. EA at 28-39.

**Objector Statement #4:** Objector states that the Forest misrepresented the conclusions of Harvey et al which was both “sloppy analysis,” and “deliberately misleading.” BK at 6 and 7. Objector further questions the Forest’s use of Simard, 2010 and believes the studies cited by the agency actually refute the agency’s findings and do not support the purpose and need. BK at 7. Objector concludes that the Forest is arbitrary and capricious because they “disregard, or misrepresent, the body of science that contradicts its proposal.” BK at 7.

**Response:** I find that the Responsible Official selected unbiased best available science applicable to the project analysis area.

The regulation at 36 CFR 220.7(b)(3)(iv) directs the agency to discuss the impacts of the proposed action and any alternatives. Forest Service policy (June 20, 2007) directs the Responsible Official to base their decision on technically sound science.

Comments from objectors regarding appropriate use of scientific publications is addressed in two separate locations. First, each of the papers cited by objectors following the 30-day comment period

have received individual response in a document called “Bark’s Science Citations” which is located in the Project Record. Second, each paper cited by objectors as misrepresenting the project is addressed in the EA at 55, Fire Science 3.1.1.1.

I had my staff review both the Harvey and Simard papers. The EA used direct quotes from the Simard paper and paraphrased results from the Harvey paper. Both papers were used in appropriate context and were not “sloppy” or “misleading” uses of the papers. In contrast to the objector’s statement, I believe that the text of the papers does support the need for action.

**Objector Statement #5:** Objector states that the Forest relied on “local knowledge” to justify the project, as documented in the response to comments, but failed to provide the referenced report by “local fire experts” in violation of NEPA law and policy. BK at 8.

**Response:** I find that the Responsible Official utilized a systematic, interdisciplinary approach, as required by NEPA and adequately identified Interdisciplinary Team members who have the required depth of experience for the Lemiti project. EA at 187-189.

In their objection, the objector’s requested what they refer to as a “publically reviewable report” presumably based on the Forest’s response to their comments. I reviewed the response to comments and do not see where the Forest referred to a report. Instead, the response to comments states that “Local fire experts recommend fuel reduction treatments...” and “Local fire experts have examined the site-specific...”. Resource specialist reports were prepared and are in the project record. Had the objector requested a report, it would have been provided.

Both the silviculture and fuels report support the need for action. The fuels report demonstrates that the proposed treatments effectively alter fire spread and behavior and reduce flame lengths, thus meeting the need for action. Objection Record, Fuels Report.

**Final Remedy/Resolution for Scientific Findings:** I find that the Forest appropriately used the science and/or papers that they cited. To further ensure that the objector’s understand how science was considered, I recommend the Responsible Official include the Bark’s Science Citations document in the project file and post this document to the web.

### ***Project Consistency***

**Overview and Objector’s Suggested Remedy:** This objection issue focuses on the objector’s belief that the project is internally inconsistent. Suggested remedy is to focus logging on more productive matrix lands.

**Objector Statement #6:** Objector states that the project’s primary or secondary goals of maintaining healthy stands and providing forest products is in conflict with the known natural cycles of the area, creating an “internally inconsistent narrative thread throughout the EA and Response to Comments.” BK at 8. Specifically, objector states that the known fire regime in the area has a 100 year stand replacing fire return interval and the area seems to be “right on schedule” to experience a stand replacing event. Objector does not understand why a forest burning in its historic fire pattern is a “problem” and believes the Forest is forcing “something unnatural” onto the area by disrupting the natural fire cycle. BK at 8 and 9.

**Response:** I find that the Responsible Official clearly identified the purpose and need for action in the Lemiti project area and addressed the objector's concern regarding the natural fire cycle.

The regulation at 36 CFR 220.7(b)(1) requires that an EA briefly describe the need for the project.

According to the EA, the Mt. Hood National Forest Land and Resource Management Plan (LRMP), or Forest Plan, as amended, requires an appropriate response to wildfires and high forest fuel loadings that threaten public and firefighter safety. EA at 7 and 19. The matrix land allocation is designated in the Forest Plan as places for active management. Ignoring the high hazard situation would also be inconsistent with the Forest's working relationship with tribal neighbors. EA at 11 and 15. The Forest is managed for a wide range of human and resource values; during a wildfire, suppression resources and the public would be at greater risk if no action is taken to moderate the hazardous fuels. EA at 7.

This project area is also identified as suitable for sustainable timber production. Proposed treatments along with the desired future condition are aligned with the objectives in both the Land and Resource Management Plan and in the Northwest Forest Plan. EA at 7-9.

As documented in the draft DN, the Responsible Official chose to take action (the Lemiti Project) in order to reduce fire hazard that could risk neighboring Tribal lands that have already been severely burned, enhance firefighter and public safety along primary access roads, particularly around Olallie Lake, and to provide for long-term forest productivity. Draft DN/FONSI at 2, 4 and 5. She clearly articulated her concerns about impacts to resources, should an intense fire burn, her concern about being a good neighbor to the Tribe, and her concern about the safety of suppression resources and the public, should a fire occur in an area that is adjacent to Tribal lands that have experienced multiple fires in the recent past. EA at 12 and 13; draft DN/FONSI at 4 and 5.

The Responsible Official also addressed the objector's concern regarding how fire is "natural" in this area. She clearly stated that prior to land management, stand replacing fires likely occurred in this area, but that the Forest is managed for "a wide range of human values such as air quality and recreation as well as many other natural resource values and, in the event of a wildfire, suppression forces would be at greater risk protecting these values if no action is taken to moderate the fuels hazard (s. 1.5.1, s. 3.1). The Forest is managed for human uses and values according the goals and objectives of the Forest Plan as amended." Draft DN/FONSI at 8.

**Final Remedy/Resolution for Project Consistency:** The Responsible Official clearly documented the purpose and need and fully explained why she was taking action in this area, both in the EA and in her draft decision. As such, no remedy or resolution is needed.

### ***Impacts From Temporary Road Construction and Harvest***

**Overview and Objector's Suggested Remedy:** This objection issue focuses on the objector concern that the unroaded and undeveloped Lemiti Butte will be impacted and that the temporary roads constructed in the area will invite unauthorized motorized use, which could increase the risk of human-caused wildfire. Suggested remedy is to limit construction of new roads; ensure controlled access during the project; and upon the project's completion, ensure that roads are closed in a timely and secured manner through an explicit commitment in the decision.



**Objector Statement #7:** Objector believes that the project unnecessarily impacts roadless areas through timber harvest and road construction, particularly at Lemiti Butte, and would lead to potential increased wildfires via human caused ignition and would also result in unauthorized access by motorized vehicles. BK at 9. Objector states that while the response to comments indicates that the roads are to be temporary, they believe that the response failed to recognize the potential for access during implementation and also believe that the Clackamas River Ranger District has failed to close and/or rehabilitate temporary roads in the past, as they have documented and reported. BK at 10-12.

**Response:** I find that the Responsible Official took a “hard look” at the environmental effects associated with the proposed project and took this into consideration in making her decision.

The regulation at 36 CFR 220.7(b)(3)(iv) directs the agency to discuss the impacts of the proposed action and any alternatives.

I find the Responsible Official clearly described the effects to areas with unroaded and undeveloped character and methods of controlling access during the project and rehabilitation of temporary roads. She provided measures to minimize impacts associated with temporary roads. EA at 37. The timber sale contract describes how the Forest would control access on these roads during project implementation.

There is no formally defined Inventoried Roadless Area or designated Wilderness within the project area. EA at 98. Effects of the project on the three blocks with unroaded/undeveloped characteristics are fully disclosed in the EA at 100-103. The Responsible Official determined that these effects were minimal and that avoiding all actions within these three areas would result in a 68% reduction in acres of hazardous fuels treated in the project area, which would not meet the purpose and need of the project. Draft DN/FONSI at 11.

During project implementation, access on temporary roads will be controlled by signing. EA at 37. The methods used to rehabilitate these temporary roads (bermed at the entrance, water bars installed, decompacted and roughened using appropriate equipment, and debris placed where available) are described in the EA at 26 and 164-165. The timber sale contract describes the methodology for rehabilitating temporary roads, as elaborated in the response to Objector Statement #8 below.

The claim that potential for human caused wildfires would increase due to construction of temporary roads is not documented in the scientific literature. Studies cited by the objector reference roads open to the public, as opposed a temporary road that is not open to public travel. Project Record at Bark’s Science Citations.

Temporary roads used by the purchasers under contract are not roads that are open to the public, nor are they designated as roads open to the public on the Forest’s Motor Vehicle Use Map (MVUM). Any person or persons using these roads would not be in compliance with the MVUM and as such, could be cited by law enforcement for violating the regulation at 36 CFR 261.13, which prohibits motor vehicle use off of designated roads and trails and outside designated areas.

**Objector Statement #8:** Objector is concerned “about the lack of transparency around where the money to close and decompact these roads comes from.” Objector states that while the Forest clarified that the funds are covered via the timber sale contract, they request that the Forest commit to enforce “truly effective closures on roads built or rebuilt for this project when operations are not occurring” including times outside of the normal operating season. BK at 11 and 12.

**Response:** I find that it is not within the scope of NEPA analysis to identify how a project will be implemented.

Nothing in the NEPA regulations at 36 CFR 220 or 40 CFR 1500 requires the agency to include specifics of how implementation of a project will be funded. However, the Responsible Official did describe in the draft DN at 10, that funds to build and rehabilitate temporary roads are expected to be covered by an appraisal allowance required by the contract to remove the vegetation. In addition, the Forest Service Timber Sale contract (April 2004) includes the standard provision, B6.63 Temporary Roads, that describes the methodology and expectation of performance for rehabilitating temporary roads, while provision C5.1 details temporary road rehabilitation requirements. See timber sale contracts at <http://www.fs.fed.us/forestmanagement/products/contracts.shtml>. Forest Service Contracting Officers, Timber Sale Administrators and Harvest Inspectors are employed by the agency to ensure all provisions of a contract are adhered to.

**Final Remedies/Resolution for Impacts from Temporary Road Construction and Harvest:** The Responsible Official clearly indicated how temporary roads are closed following use. The timber sale contract is the appropriate mechanism to ensure that temporary roads are constructed and decommissioned in an appropriate manner. The agency employs Timber Sale Administrators, Harvest Inspectors and Contracting Officers to ensure that contract provisions are carried out as planned. Any person or persons using these roads would not be in compliance with the MVUM and as such, could be cited by law enforcement for violating the regulation at 36 CFR 261.13, which prohibits motor vehicle use off of designated roads and trails and outside designated areas. No further remedy or resolution is needed.

### ***Diameter Limits***

**Overview and Objector's Suggested Remedy:** This objection issue focuses on the objector belief that diameter limits are needed to protect large trees and to meet the purpose and need. Suggested remedy is to establish a 21-inch diameter limit on cutting all green trees and snags within the fuel breaks and proposed treatment units.

**Objector Statement #9:** Objector states that the proposed fuel break treatment areas and other areas that will be heavily cut will create a dense lodgepole pine structure across a large area, instead of producing large, well-spaced live trees with little underbrush or ladder fuels, which fails to meet the purpose and need of providing "long term forest productivity" because large, fire-resistant trees would be removed. BK at 10-12. Objector believes a 21-inch diameter limit on all green trees and snags and retaining green trees at a 12-foot maximum spacing would reduce impacts to wildlife habitat, guarantee that large trees would be retained, ensure a viable mixed-conifer seed source and promote human safety. BK at 13-15. Objector concludes by stating that the area is in a frost pocket, which could make regeneration difficult after a fire and that retaining large trees would provide a future seed source and provide for long-term forest productivity. BK at 14-15.

**Response:** I find there is no law, regulation or policy placing diameter limits on the size of tree that can be removed within the matrix land allocation under the Northwest Forest Plan.

Over 99% of the proposed treatment areas are within the matrix land allocation area, less than 1% is within the unroaded recreation land allocation, which has no large trees. EA at 16 and 110. The

Responsible Official clearly states that where live trees are removed in fuel treatment harvest units, the largest trees would be retained with a target of 60-80 ft<sup>2</sup> basal area per acre, creating a condition that the objector's desire – large, well-spaced trees. EA at 3, 24-25 and DN at 11. This is in compliance with the Mt. Hood National Forest LRMP, as amended by the Northwest Forest Plan. DN at 15. In addition, the EA retains all snags other than lodgepole pine (unless they are a safety concern) and there are no lodgepole pine trees greater than 21" in diameter. EA at 36.

The EA and the response to comments also addressed objector's concern. The EA stated that the largest trees would be retained, while the response to comments stated that "Diameter limits are not used because a one-size-fits-all diameter does not adequately address spacing and ladder fuel treatments. (s. 2.2)." EA at 24 and 45; EA Appendix B at 5 and 6. In addition, the largest trees in this area are typically mountain hemlock or Douglas-fir, with diameters ranging from 6" to 15" dbh in units 14 and 22, as documented in the project record; thus, it is unlikely that a tree greater than 21" exists in these stands, further negating the need for a diameter limit. Mountain hemlock is not a fire-resistant species, as it has thin bark, retains branches throughout its bole (tree stem) and often grows in clusters in forests with ladder fuels; the large trees would be retained via the prescription. The few Douglas-fir trees that do occur would be retained by the basal area prescription.

For further clarity and to help ensure that the Responsible Official's intent of leaving the largest trees is met, I instruct the Responsible Official to include in the final decision language that will be used in the prescription direction that clearly states that the largest trees will be retained.

While researching this objection statement, I found that my staff had to review a number of documents to identify unit specific information. Therefore, for clarity, I instruct the Responsible Official to include a Project Unit Summary Table in the final decision, which will clearly identify the existing condition and proposed treatment for each unit in a single table, versus having to find that information in the record.

**Final Remedies/Resolution for Impacts from Diameter Limits:** In order to clarify the decision, I have instructed the Responsible Official to include in the final decision language that will be included in the prescription direction that clearly states that the largest trees will be retained. I also instruct the Responsible Official to include a Project Unit Summary Table in the final decision, which will clearly identify the proposed treatment for each unit in a single table, versus having to find that information in the record.

### ***Units 14 and 22***

**Overview and Objector's Suggested Remedy:** This objection issue focuses on the objector's belief that the decision to include Units 14 and 22 violates the purpose and need. Suggested remedy is to remove Units 14 and 22 and the corresponding road into Unit 22 from the final decision.

**Objector Statement #10:** Objector states that the inclusions of live, medium sized hemlock and Douglas-fir in the treatment areas should be "skipped" to protect the diversity in mixed conifer stands and that Units 14 and 22 have greater than 5% of their area with this "inclusion" and as such, should be removed from the decision because if logged, these areas "would surely revert back to a dense lodgepole pine thicket seen throughout artificial openings along FSR 4220 and 4220-130." BK at 15 and 16. Objector believes that these units are actually in the mountain hemlock plant association and are transitioning away from lodgepole pine and that treating these stands would "inadvertently" promote "another

dense stand of lodgepole pine which could be subject to another insect attack” in violation of the purpose and need. BK at 16 and 17.

**Response:** I find that the Responsible Official considered an adequate range of alternatives to respond to this issue, including a no action alternative that does not propose treatments in units 14 and 22 and she considered dropping these units, but eliminated that consideration from detailed study.

The regulation at 36 CFR 220.7(b)(2)(i) directs an EA to include a proposed action and when there are no unresolved conflicts concerning alternative uses of available resources, the EA need only analyze the proposed action. The regulation at 36 CFR 220.7(b)(2)(ii) states that an EA may document consideration of a no action alternative through the effects analysis by contrasting the impacts of the proposed action and any alternative(s) with the current condition and expected future condition if the proposed action is not implemented.

I find the Responsible Official has clearly described both the amount of vegetation diversity along with the amount of no treatment areas (i.e. Riparian Reserves, Late-successional reserves) within the 3,140 acre analysis area. EA at 4-7. The proposed action treatment acres total 1,432; units 14 and 22, totaling 56 acres, are proposed due to high levels of ladder fuels in need of treatment as part of a suite of treatments that work together to create both a broader landscape scale effective fuels treatment project and directly supports the roadside fuel break strategy along FS road 4220. EA at 46 and 47; EA Appendix B at 6; Draft DN/FONSI at 12. Thus, the EA and draft decision documented consideration of dropping these units, as requested by the objector. EA at 46 and 47.

As stated previously, after treatment, 60-80 ft<sup>2</sup> of basal area would be retained consisting of large, live trees (primarily mountain hemlock for Unit 14 and Douglas-fir, mountain hemlock and western white pine for Unit 22, with diameters ranging from 6” to 15”). As such, the objector’s assertion that the prescription would promote lodgepole stand is not correct, given that the tree species retained would be mountain hemlock, Douglas-fir and western white pine for these two units.

**Objector Statement #11:** Objector states that the proposed logging and road building in Unit 22 would “do nothing to increase safe access towards the boundary of Warm Springs” and therefore, this unit does not address the issues of firefighter safety, fire spread to Warm Springs, or forest productivity. BK at 17.

**Response:** I find that the Responsible Official has strategically proposed Unit 22 based on expected fire behavior for this analysis area.

The regulation at 36 CFR 220.7(b)(3)(iv) directs the agency to discuss the impacts of the proposed action and any alternatives.

As shown in EA at Appendix A, Unit 22 is located north and east of FS road 4220, encompasses portions of the mid-slope and south aspect of a ridge, encompasses the south side of the saddle connecting to treatment unit 24, and completes treatment proposal around the entire base of Lemiti Butte. When a wildfire occurs in this area and is permitted to gain momentum growing to higher elevations, long range spotting potential increases threatening the values at risk, primarily because of high flame lengths. EA at 57 and 58. Nothing in the EA indicates that this particular unit was included to increase safe access towards the boundary of Warm Springs, as asserted by the objector. Instead, including this unit meets

the need to reduce potential fire hazard on the Forest, enhance firefighter safety and improve forest productivity. EA at 7 and 8.

**Objector Statement #12:** Objector applies this same reasoning to Unit 14 and states that there is little structural difference between this unit and the adjacent stands, which were dropped from the proposal. BK at 17. Objector requests eliminating the remaining parts of the unit outside of the “uncontested” fuel break in order to better protect mature trees and maintain the existing forest structure. BK at 17 and 18.

**Response:** I find that the Responsible Official has strategically proposed Unit 14 based on expected fire behavior for this analysis area.

The regulation at 36 CFR 220.7(b)(3)(iv) directs the agency to discuss the impacts of the proposed action and any alternatives.

As shown on map EA at Appendix A, Unit 14 is located south of FS road 4220. A portion of unit 14 includes a segment of the roadside fuel break, reinforcing the fuel break at this location by treating beyond the fuel break bolsters the effectiveness for safe ingress and egress at a critical location. In addition, by thinning the ladder fuels away from the mature trees within Unit 14 can further protect them from succumbing to wildfire. EA at 57 and 58. The area adjacent to this stand was dropped because it was determined to be suitable owl habitat and as such, does have a different structure than the remaining 9 acres of Unit 14.

**Objector Statement #13:** Objector states that after ground truthing Units 14 and 22, they do not believe that the Forest is “accurately describing the baseline condition of these stands” in violation of case law and the NEPAs mandate to take a “hard look.” BK at 17 and 18.

**Response:** I find that the Responsible Official took a hard look at stand conditions and provided site specific information needed to allow the public to appropriately assess the prescription being applied and has made an environmentally sound decision to treat the hazardous fuels concentrations within Units 14 and 22.

A hard look means that assumptions must be spelled out, inconsistencies explained, methodologies disclosed, contradictory evidence rebutted, record references solidly grounded, guesswork eliminated, and conclusions supported in a manner capable of judicial understanding. The regulation at 36 CFR 220.7(b)(3)(iv) states that the EA “(m)ay discuss the direct, indirect, and cumulative impact(s) of the proposed action and any alternatives together in a comparative description or describe the impacts of each alternative separately.”

Units 14 and 22 are located within matrix land allocation as described in the NWFP at 7; matrix lands are federal lands identified where most timber harvest and other silvicultural activities will be conducted. The EA at 46 describes the current condition of Units 14 and 22, describes proposed treatments, and provides an explanation as to why the acres are applicable to meeting the purpose and need for the project. The EA and draft DN/FONSI document consideration of eliminating these two units, as suggested by the objector. EA at 57 and 58; draft DN/FONSI at 12.

See also response to Objector Statements #11 and #12.

**Final Remedy/Resolution for Units 14 and 22:** The EA, draft decision and the cited specialist reports adequately describe the existing conditions. For example, the EA at 24 describes that 75% of the area is primarily dead lodgepole pine while the rest is described as having conditions like those in units 14 and 22. These units consist predominantly of dense live mountain hemlock trees with scattered large Douglas-fir trees and inclusions of dead lodgepole pine. These units will retain 60 to 80 square feet of basal area per acre along with an understory of mountain hemlock saplings. EA at 25. After treatment, the areas would remain fully stocked. Areas that have this degree of stocking with mountain hemlock and other species will not transition to a lodgepole pine stand unless the stand burns with sufficient intensity to kill all the live trees. The proposed treatment is intended to reduce the risk of that happening, while no treatment in these units would increase the risk of that happening. EA at Chapter 3.

The EA, draft decision and the cited specialist reports contain adequate information to support the inclusion of these two units. They support the concept that high fire hazard does not only occur in dead lodgepole pine stands, but that extreme fire behavior can occur in these high-elevation mixed conifer stands with a dense live tree component, ground fuels and ladder fuels. This is supported by fire modeling which predicts a crown fire for these stands. EA at 57 and 58. The proposed treatment would break up the continuity of fuels and provide sufficient spacing of live trees and ladder fuel reduction to keep ground fires on the ground. The units also bolster the roadside fuel break by treating hazardous fuel conditions beyond this relatively narrow strip.

The EA, draft decision and the cited specialist reports also support the conclusion that the resource effects of conducting fuel treatments in these two units have been adequately described and that the effects would not be significant. The supplemental table discussed above for Objector Statement #9 will clarify some of the issues raised here and will be included in the final decision.