



December 13, 2017

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

Submitted via email to: objections-pnw-mthood@fs.fed.us

Re: OBJECTION – Hunter Integrated Resource Project

To Forest Supervisor Northrop:

WildEarth Guardians submits the following objection to the U.S. Forest Service’s decision to select Alternative B out of the two alternatives analyzed (proposed action and no action) in the Draft Environmental Assessment (EA) pursuant to the National Environmental Policy Act (NEPA). Selected Alternative B would include logging on over 2,000 acres, prescribed burning, maintenance and repair of 148 miles of system roads, construction or reconstruction of 13.9 miles of temporary roads, decommissioning 1.6 miles of unneeded roads, closing 24 miles of system roads, and adding 0.3 miles of system roads on the Clackamas River Ranger District of Mt. Hood National Forest.

As required by 36 C.F.R. § 218.8(d), the lead objector’s name, address, and telephone number:

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1. Interests and participation of objecting party.

WildEarth Guardians is a nonprofit conservation organization with offices in Oregon, Washington, and four other states. WildEarth Guardians has more than 183,000 members and supporters across the United States and the world. Guardians protects and restores wildlife, wild places, wild rivers, and the health of the American West. For many years, WildEarth Guardians has advocated that the Forest Service maintain a balance between access, risks and costs when addressing its road system. We submitted timely comments on the Forest Service’s proposal outlining the Hunter Integrated

Resource Project.¹ Thoughtful management of the agency’s road system and its associated impacts can improve the health of watersheds and wildlife on Mt. Hood National Forest. Guardians has organizational interests in the proper and lawful management of the forest road system and its associated impacts on Mt. Hood National Forest’s wildlife and wild places.

2. Objections and suggested remedies.

a. Failure to adequately or fully address and respond to comments in a meaningful way.

The Forest Service fails to meaningfully respond to many of our comments in violation of NEPA’s implementing regulations. 40 C.F.R. § 1503.4 (requiring an agency to “assess and consider comments” and “respond by one or more of the means listed below” including (1) modifying alternatives, (2) developing and articulating new alternatives, (3) supplementing, improving, or modifying its analysis, (4) making factual corrections, or (5) explaining why the comments do not warrant further agency response). This concern was not raised in our comments because it relates to the Forest Service’s response to comments, after the close of the official comment period. For example:

- We urged the Forest Service to identify the minimum road system for the project area, consistent with its duty under Subpart A of the Road Rules, 36 C.F.R. § 212.5. The agency’s almost 200 pages of analysis in the EA fails to even mention the minimum road system. The response to comments points to the Forest Service’s project-specific travel analysis, which as explained below fails to address the duty to identify the minimum road system or even begin to start addressing compliance with Subpart A.
- Council for Environmental Quality’s (CEQ’s) rules explain that an environmental assessment “[s]hall include brief discussions of the need for the proposal.” 40 C.F.R. § 1508.9. In response to Guardians’ comment that the statement of purpose and need should include the agency’s duty to identify the minimum road system and unneeded roads for decommissioning, the Forest Service simply states that the statement of purpose and need is articulated at s. 1.3.8. EA, Appendix B at 29. This fails to respond to our comment.
- The Forest Service fails to respond to our comments suggesting an analysis of the cumulative impacts of climate change and forest roads.

Suggestion: Revise the draft decision notice and EA to meaningfully respond to and address public comments.

b. Fails to provide the public with sufficient information, precluding meaningful comment.

Our comments highlighted the Forest Service’s duty under NEPA to provide data and analysis in a manner that allows the public to thoroughly review and understand the analysis of environmental consequences. Comments at 6. The entirety of our comments emphasized our concerns about the road system within the project area and the Forest Service’s duty to comply with Subpart A of its

¹ May 5, 2017 WildEarth Guardians Comments on Hunter Integrated Resource Project, submitted to Jim Roden, Estacada Ranger Station (hereafter, “Comments”).

own Travel Rules. Yet the Forest Service provides only cursory information regarding the road network within the project area. For example, the Forest Service gives a summary of the cumulative road miles recommended for closure or decommissioning in the forest-wide travel analysis, and compares that with a summary of the cumulative road proposed actions (changing maintenance levels up or down, or removing from the system). *See* EA at 168. The table at 2.2.8.6 merely recognizes if there is a change, but does not explain the change in management approach in terms of risks and benefits, as required by Subpart A for identifying unneeded roads and the minimum road system (the roads identified as needed). EA at 43-44. The Forest Service's approach here fails to inform the public about the *road-specific* recommendations from the forest-wide travel analysis report for all system roads in the project area, provide any explanation for the differences between management approaches, or explain why certain roads are remaining on the system and whether those roads were rated as a high aquatic risk.

Suggestion: Revise the EA to include site-specific information regarding the roads—system and non-system—within the project area, the risks and benefits of these roads as assessed in the travel analysis report, an explanation for changes to the travel analysis recommendations, and identify all roads in the project area listed as unneeded in the forest-wide travel analysis.

c. Failure to explain changes in road management decisions from travel analysis report.

To the extent that the final decision in this project differs from what is recommended in the forest-wide travel analysis report, the Forest Service must provide an explanation for that inconsistency. *See, e.g., Smiley v. Citibank*, 517 U.S. 735 (1996) (“Sudden and unexplained change . . . or change that does not take account of legitimate reliance on prior interpretation . . . may be ‘arbitrary, capricious [or] an abuse of discretion’”) (internal citations omitted). Here, the Forest Service fails to explain why its management approaches differ from the report's recommendations. The summary tables in the EA do not explain why there are changes from the travel analysis report. *See, e.g.,* EA at 43-44, 168.

Suggestion: Revise the EA and draft decision notice to identify where road actions in this project are inconsistent with the travel analysis report, explain why there is a change in management approach, and explain how the new approach still allows the agency to achieve its substantive duties under subpart A of the Travel Management Rule to work towards a minimum road system. This includes decisions to change maintenance level from 1 to 2 specific road segments recommended to remain closed under the travel analysis report.

d. Failure to identify the minimum road system.

We urged the Forest Service to identify the minimum road system for the project area, based on the factors defining a minimum road system as set forth in subpart A of the Forest Service's travel rules and in light of Mt. Hood's forest-wide travel analysis report. *See* 36 C.F.R. § 212.5(b)(1) (“The minimum road system is the road system determined to be needed to meet resource and other management objectives adopted in the relevant land and resource management plan (36 CFR part 219), to meet applicable statutory and regulatory requirements, to reflect long-term funding expectations, to ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.”). Comments at 2-5.

In response, the Forest Service states that the project does move the area toward a minimum road system. *See, e.g.*, DN at 11. Based on the proposal to decommission just 1.6 miles of system roads and maintain or repair less than half of the 300 miles of total system roads, we do not understand how the project moves the area towards a minimum road system. The agency explains that based on site-specific analysis and public involvement, some roads identified as not likely needed in the travel analysis report were found to be needed, and some roads identified as likely needed were found to not be needed. EA, Appendix B at 28-29. As noted above, these determinations and the reasoning supporting these determinations is impermissibly absent from the analysis in the EA. To the extent that the Forest Service made these determinations based on an undefined need, without assessing other factors like the aquatic risks or impacts to wildlife habitat connectivity, or the regulatory factors defining the minimum road system, the Forest Service's decision here fails to comply with its own regulations and policy. Ultimately, the Forest Service fails to identify the minimum road system as required by Subpart A.

The Forest Service's regulations state that based on the travel analysis process each forest "must identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands." 36 C.F.R. § 212.5(b)(1). The rules define the minimum road system as "the road system *determined to be needed* to meet resource and other management objectives" *Id.* (emphasis added).

The Forest Service's approach here is inconsistent with directive memoranda from the Forest Service's Washington Office.² It is also illogical: this NEPA analysis is based on specific facts demonstrating risks, benefits and demand for roads in the area, and the current process includes the public in the agency's decision making. Deferring identification of the minimum road system to a later date improperly excludes from the NEPA process the determination of whether the resulting road system is "needed" pursuant to subpart A, and improperly precludes the public from that decision. Deferring the decision also further unduly delays compliance with subpart A, which has been a Forest Service duty for more than 15 years.

Identifying a minimum road system is one of the most important endeavors the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, ensure reliable recreational access, and operate within budgetary constraints. And it is a win-win-win approach: (1) it's a win for the Forest Service's budget, closing the gap between large maintenance needs and drastically declining funding through congressional appropriations; (2) it's a win for wildlife and natural resources because it reduces negative impacts from the forest road system; and (3) it's a win for the public because removing unneeded roads from the landscape allows the agency to focus its limited resources on the roads we all use, *improving* public access across the forest and helping ensure roads withstand strong storms.

Suggestion: The Forest Service should take this opportunity to identify the minimum road system for this watershed—not just move towards it—based on the factors listed at 36 C.F.R. § 212.5(b)(1).

² *See* Comments, Attachment A (Memorandum from Leslie Weldon to Regional Foresters *et al.* on Travel Management, Implementation of 36 CFR, Part 212, Subpart A (Mar. 29, 2012), explaining "The next step in identification of the [minimum road system] is to use the travel analysis report to develop proposed actions *to identify* the [minimum road system].") (emphasis added).

Short of that, the Forest Service should provide a date-certain timeline for achieving compliance with subpart A.

e. Failure to prioritize unneeded roads for decommissioning.

Guardians commented that the Forest Service should consider unneeded roads for closure or decommissioning. Comments at 2-5. Subpart A of the Forest Service’s own travel rules requires it to identify unneeded roads to prioritize for decommissioning or to be considered for other uses. 36 C.F.R. § 212.5(b)(2). *See also Center for Sierra Nevada v. U.S. Forest Service*, 832 F. Supp. 2d 1138, 1155 (E.D. Cal. 2011) (“The court agrees that during the Subpart A analysis the Forest Service will need to evaluate all roads, including any roads previously designated as open under subpart B, for decommissioning.”). A decision to decommission roads should also consider recommendations from Mt. Hood’s travel analysis report. 36 C.F.R. § 212.5(b)(2) (requiring decisions about which roads are needed to be based on “a science-based roads analysis at the appropriate scale.”).

Here, we are very disappointed to see that under Alternative B the Forest Service will decommission only 1.6 miles of the 300 miles of system roads within the project area. *Compare* Decision Notice at 4 *with* EA at 164. Instead of decommissioning, 24 miles of system roads will go to long-term closure and the Forest Service will add 0.3 miles to the road system. Decision Notice at 4. Plus the Forest Service plans to retain culverts unless specified. EA at 45. Because it will likely be many years before the Forest Service returns to re-assess the roads in this project area, this is a major missed opportunity to comprehensively address the road system under this integrated landscape-level project. The Forest Service itself recognizes the funding challenges of maintaining its crumbling road system, *see* Decision Notice at 7 and EA at 164-165 (listing limited funding and existing road failures, drainage failures, and erosion control problems), yet proposes to reduce its total road system by a fraction of 1%.

The Forest Service should not rely on road closures as a proxy for decommissioning roads. Indeed, the Forest Service Manual directs forests to prioritize decommissioning unneeded roads. FSM 7703.12(5) (Road Management) (“Give priority to . . . decommissioning unneeded roads, or, where appropriate, converting them to less costly and more environmentally beneficial uses.”). Closing roads—instead of decommissioning—does nothing to actually reduce the miles of system roads in the agency’s road inventory since stored roads remain on the Forest Service inventory and retain Road Management Objectives in the system, while decommissioned roads are removed from the Forest Service road inventory. On a practical note, closed roads remain on the landscape and therefore still present a risk to the ecosystem. No maintenance is planned for roads while in storage. But if and when a closed road fails, the Forest Service is responsible for the resulting impacts and financial costs to address it. In contrast, returning expensive, deteriorating, and seldom used forest roads to the wild would significantly reduce the risks those roads pose to the ecosystem. *See* Comments at 5. Decommissioning more road miles would better achieve the stated needs for this project.

Suggestion: As forest road users and conservationists, we understand that a strategic reduction in road miles does not necessarily equate to a loss of access. Some roads are already functionally closed, either due to washouts, lack of use, or natural vegetation growth. Other roads receive limited use and are costly to maintain. Resources can be better spent on roads providing significant access than to spread resources thinly to all roads. This is why we urge a more probing analysis of roads and a

revised decision that would decommission more of the system roads the forest has identified as unneeded.

f. Fails to ensure closed roads will remain closed to public use.

Our comments highlighted the impacts from unauthorized use of closed forest roads—including that it presents a safety hazard as well as ongoing direct and cumulative impacts to the landscape that require additional maintenance costs. Comments at 7. Instead of addressing the harms associated with closed roads as compared to decommissioned roads—especially due to unauthorized use—or improve the project design to provide assurances that road closures will be effective, the Forest Service accepts that closed roads will continue to receive unauthorized use. *See* DN at 11-12. This is a major public safety concern. This aspect of the Forest Service’s proposal is inconsistent with the statement of purpose and need, fails to mitigate or address the harmful impacts from unauthorized use of closed forest roads, and is arbitrary and capricious given the history of failing to ensure closed roads remain closed to public. The approach undermines any resource benefits the Forest Service asserts will result from the road closures.

Suggestion: Revise the draft decision to include assurances that closed roads will remain closed to the public through improved road closure mechanisms.

g. Lacks a decision regarding aquatic and riparian management actions.

We advocated for the Forest Service to adopt a thoughtful, strategic approach to improving public access to the forest, reducing negative impacts from forest roads to water quality and aquatic habitats, and improving watersheds and forest resiliency that is in line with Mt. Hood’s long-term funding expectations. Comments at 1-2. The draft decision mentions, generally, culvert replacement or repairs, adding woody debris in two streams, and restoring riparian areas. But the Forest Service fails to make an actual decision or commitment regarding these activities in the decision notice. *See* DN at 1 (referencing aquatic and riparian management actions, generally); *id.* at 2 (describing stream and riparian area restoration and enhancement, generally); *id.* at 4 (summarizing aquatic and riparian management actions without any numbers or site-specific details); *id.* at 7 (explaining the draft decision would replace some culverts, add some woody debris to streams, and restore some dispersed camping sites).

The decision notice lacks a decision for specific aquatic and riparian management actions. The EA discusses these actions in a bit more detail. *See, e.g.*, EA at 22 (proposing to replace three culverts that impede fish passage, place woody debris in two streams, and rehabilitate dispersed camping areas that impact riparian vegetation). But some of the information is inconsistent. For example, at one point in the EA the Forest Service proposes to replace three culverts that impede fish passage, but later on the same page describes more than three culverts that would be replaced to provide aquatic organism passage. EA at 22. Given the inconsistent descriptions in the EA and vague references in the decision notice, it is impossible for the public to know what exactly the Forest Service is committing to under this project. By alluding to these projects, without a firm commitment, the Forest Service gives the appearance of committing to positive restoration activities without actually making a commitment and therefore cannot be held accountable. This prevents meaningful public comment and improperly skews public perception of this project. To the extent the Forest Service relies on these actions to ensure compliance with the Clean Water Act or

Endangered Species Act, it must provide firm commitments and clarify the scope of work authorized in the decision notice.

Suggestion: Revise the decision notice to include site-specific and numeric descriptions of the aquatic and riparian management actions.

h. Fails to consider important environmental impacts of the proposed action.

Our comments encouraged the Forest Service to consider a broad array of impacts related to forest roads in its NEPA analysis, including impacts from forest roads, impacts from the unauthorized use of closed roads, and cumulative impacts on the landscape from climate change and forest roads. Comments at 6-8. CEQ's rules states that an environmental assessment "[s]hall include brief discussions . . . of the environmental impacts of the proposed action and alternatives." 40 C.F.R. § 1508.9. But the Forest Service's analysis in the EA fails to consider its proposed action in light of cumulative impacts from climate change and forest roads. *See, e.g.*, EA at 169 (considering only the cumulative effects of haul roads outside the planning area in combination with those within the project area).

Suggestion: Revise the EA to address important environmental impacts, including the cumulative impacts from climate change and forest roads.

Conclusion

WildEarth Guardians appreciates your consideration of the information and concerns addressed in this objection, as well as the information included in the attachments. Pursuant to 36 C.F.R. § 218.11, we respectfully request to meet with the reviewing officer to discuss these concerns and suggested resolutions. Should you have any questions, please do not hesitate to contact us.

Sincerely,



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