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12 December 2011

TO: Coos Bay District BLM, BLM_OR_CB_Mail@blm.gov
ATTN: Aimee Hoefs

Subject: Oregon Wild comments on the Wagon Road Pilot EA

Dear BLM:

Please accept the following comments from Oregon Wild concerning the Wagon Road Pilot EA, DOI-BLM-OR-C040-2011-0008-EA, dated November 2011. http://www.blm.gov/or/districts/roseburg/plans/files/Roseburg_Pilot_Scoping_Letter_Notice_Map_Final.pdf Oregon Wild represents about 7,000 members and supporters who share our mission to protect and restore Oregon's wildlands, wildlife, and water as an enduring legacy. Our goal is to protect areas that remain intact while striving to restore areas that have been degraded. This can be accomplished by moving over-represented ecosystem elements (such as logged and roaded areas) toward characteristics that are currently under-represented (such as roadless areas and complex old forest).

The proposed action alternative involves:

- 121 acres of regen harvest in matrix (mature forest, mostly <80 years old but past CMAI)
- 5 acres of density management in riparian reserves (mature forest, mostly <80 years old but past CMAI) (35' no-cut buffer, 24" dbh limit)
- 9 acres of density management/hardwood conversion in a buffer for the marbled murrelet
- 40 acres of retention blocks for red tree vole, riparian reserves, and scattered
- 1.1 miles of road construction
- 1.2 miles of road decommissioning
- 4.1 miles of road renovation and improvement
- 200 tpa replanting

Oregon Wild would be happy to collaborate constructively on an ecologically valid restoration project such s thinning dense young stands, but this project has been forced on the public without regard to public input indicating that there are much better ways of meeting BLM's objectives. In these comments we provide a critical review of the EA

showing why it is folly to suggest that there are great benefits from clearcutting mature forests or that BLM must go down this path to meet its objectives related to either wood production or early seral forests.

Important Issues Raised in Scoping Remain Unaddressed

On June 29, 2011 Oregon Wild provided detailed and relevant scoping comments on this project which were largely ignored by BLM in pursuit of its predetermined outcome. We urge BLM to review these scoping comments again to gain a better understanding of problems with clearcutting projects of this type and how it may be refocused toward more productive ends.

Oregon Wild's scoping letter raised a host of important and highly relevant issues related to regen logging, including:

- new information that undermines matrix objectives;
- logging mature forest will likely exacerbate adverse competitive interactions between spotted owls and barred owls;
- the effect of logging mature forest on climate change and carbon storage;
- new information on snags and dead wood, and the effect of logging on long term recruitment;
- the questionable ecological benefits expected from logging mature forests, and
- the existence of several environmentally preferable ways of meeting objectives related to wood production and early seral habitat creation.

The EA largely failed to address these issues. And BLM cannot tier to another programmatic NEPA document for these issues because, neither the 1994 NWFP SEIS, nor the 2008 WOPR FEIS adequately considered these matters.

All these issues together, plus the potentially precedent-setting nature of the pilot projects, indicate the existence of potentially significant environmental effects from regen logging of mature forest, and the need for BLM to prepare an Environmental Impact Statement instead of an Environmental Assessment.

Inadequate Range of Alternatives

Comparing just a single action alternative to the no action alternative fails to fulfill NEPA's mandate to consider all reasonable alternatives and to address unresolved conflicts among competing uses of resources by developing and considering a full range of alternatives.

Unresolved conflicts trigger consideration of a full range of alternatives even in EAs. Examples of unresolved conflicts in this project include:

- Riparian reserves cannot be managed for both timber volume and optimal levels of dead wood recruitment. Alternatives should compare the effects of various levels of tree retention (e.g. thinning young stands and various proportions of treated and untreated areas) on dead wood recruitment both instream and upland portions of riparian reserves;
- Riparian reserves cannot be managed for both sun-loving beargrass and cooling shade for streams and other wildlife. Alternatives should compare the ecological

effects of thinning to enhance sun-loving plants in different parts of the landscape including outside of riparian reserves;

- Mature forests cannot be managed for timber production and to mitigate for the adverse competitive interactions between spotted owls and barred owls. Alternatives should compare the effects of various levels of habitat retention (e.g. thinning in young stands with various proportions of treated and untreated areas, no road construction) on the fate of the spotted owl;
- Mature forests cannot be managed for timber production without significant carbon emissions that exacerbate climate change. Alternatives should compare the effects of various levels of tree retention (e.g. thinning in young stands and various proportions of treated and untreated areas, no road construction) on forest growth, and carbon emissions/storage over time;
- There is a conflict between regen harvest and providing optimal levels of future snag habitat. Alternatives should compare the effects of various levels of green tree retention (e.g. thinning young stands and various proportions of treated and untreated areas, no road construction) on snag recruitment over time.
- There is a conflict between enhancement of early seral habitat and conifer replanting. Alternatives should compare various levels of replanting including not replanting.

EA Page 8 says certain issues were "Issues Considered but Eliminated from Detailed Analysis" including:

> **Consider a range of alternative ways of restoring early seral forest, creating jobs, tribal cultural restoration, producing wood, testing new silvicultural concepts, etc.**
> Rationale for Elimination: These types of activities would not meet the Purpose and Need of demonstrating the principles of Johnson and Franklin through a variable retention harvest timber sale as requested by the Secretary of the Interior.

The EA undermines a basic purpose of NEPA which is to evaluate the effects of various ways of meeting objectives. The Secretary may have directed that the pilots test the forestry principles of Johnson & Franklin, but NEPA applies to both the Secretary and BLM. Before a final decision is made to implement the pilots, BLM must become fully informed of the environmental consequences of applying those principles compared to alternatives. Alternatives are the "heart" of the NEPA process. To fully understand the consequences of applying the Johnson & Franklin principles, BLM must consider the environmental effects of applying those principles compared to alternatives means of achieving the same objectives, such as thinning young stands for volume, and modifying salvage logging practices for early seral habitat.

BLM was arbitrary by considering the bear-grass enhancement effort (which is outside the scope of the Johnson & Franklin principles) while rejecting other restoration suggestions from the public.

It is not enough to consider just one action alternative as BLM often does. The CEQ regulations specifically require that Environmental Assessments shall follow the alternatives language in NEPA.

> 40 CFR § 1508.9
> "Environmental Assessment":
> …
> (b) Shall include brief discussions of the need for the proposal, of **alternatives as required by sec. 102(2)(E)**, of the environmental impacts of the proposed action and alternatives …"

The "alternatives provision" of 42 U.S.C. § 4332(2)(E) applies whether an agency is preparing an EIS or an EA and requires the agency to give full and meaningful consideration to all reasonable alternatives. *Native Ecosystems Council v. U.S. Forest Service*, 428 F.3d 1233, 1245 (9th Cir. 2005); *see Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1229 (9th Cir. 1988) (The alternatives requirement is triggered where unresolved conflicts as to the proper use of resources exist, whether or not an EIS is required). *Te-Moak Tribe v. Interior, 608 F.3d 592, 601-602 (9th Cir. 2010)* ("Agencies are required to consider alternatives in both EISs and EAs and must give full and meaningful consideration to all reasonable alternatives.")

Arbitrary Purpose and Need

None of the project "purposes" listed on pages 3 and 4 exclude consideration of alternatives suggested above.

The alleged "need" to create more early seral forest has not been validated. Maybe fires can (or will, under the influence of climate change) create enough early seral forest. Maybe the sheer *quantity* of early seral on non-federal lands makes up for the lack of *quality*. Furthermore, the early seral forest objective could be met with a variety of alternatives that are not considered in the EA such as: modifying fire-fighting practices, modifying salvage logging practices, modifying logging and site preparation practices on non-federal lands, patches of very heavy thinning in very young stands, and/or including structure-rich "gaps" embedded in young stand thinning projects.

The EA says "The Wagon Road Pilot addresses the need to demonstrate Johnson and Franklin's principles." This is a quintessential predetermined outcome - a need so narrow that only one action alternative meets the need. This is improper.

> "The stated goal of a project necessarily dictates the range of 'reasonable' alternatives and an agency cannot define its objectives in unreasonably narrow terms." *Id.* at 1155 (citing *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 192 (D.C. Cir. 1991)). "Project alternatives derive from an [EIS's] 'Purpose and Need' section." *Id.* Thus, a court begins by determining whether or not the Purpose and Need Statement was reasonable. *Id.*; *see also Friends of Southeast's Future v. Morrison*, 153 F.3d 1059, 1066-67 (9th Cir. 1998).

Westlands Water Dist. v. Interior, (9th Circuit July 2004). http://www.ca9.uscourts.gov/ca9/newopinions.nsf/02D5B997B004D17388256ECF00825DA9/$file/0315194.pdf?openelement

Treatments in riparian reserves are inconsistent with the Aquatic Conservation Strategy.

BLM proposes to log mature forests, past CMAI, in riparian reserves. BLM says this would enhance riparian conditions, but to the contrary, logging trees up to 24" dbh will remove existing functional woody structure and reduce and delay recruitment of future woody structure important for both streams and upland habitat within riparian reserves. Logging will not maintain nor accelerate, but rather reduce and retard attainment of important riparian objectives related to large wood. See Heiken, D. 2010. Dead Wood Response to Thinning: Some Examples from Modeling Work. http://dl.dropbox.com/u/47741/dead_wood_slides_2.pdf

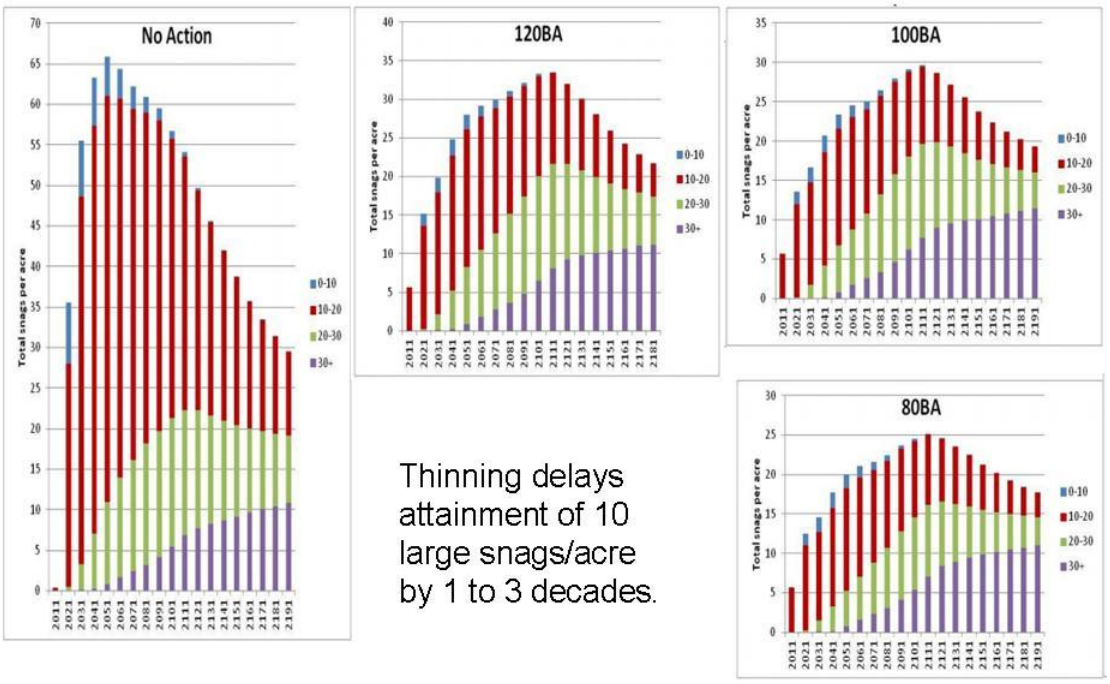
The EA fails to provide a clear rationale for logging that provides net benefits to riparian values. BLM proposes to manage for sun-loving beargrass in riparian reserves. There is no compelling riparian-related need met by this proposal, and several riparian related objectives will be degraded, including cool shade and ongoing recruitment of woody structure.

The EA fails to accurately disclose all the adverse effects of logging in riparian reserves, e.g. failure to maintain and avoid retarding attainment of snag habitat and dead wood recruitment. The EA (p29) analysis of effects of no action on riparian reserves is erroneous and misleading. It says:

> Within the Riparian Reserves, retaining the current stocking levels would retard attainment of three functions that are contingent on the presence of large diameter trees: large wood delivery to streams, large wood delivery to riparian areas, and wildlife habitats (FEMAT 1993). Stand projection simulations on the Coos Bay District suggest that unthinned stands may not regularly produce large diameter forest structure associated with late-seral forests until the stands are about 200 years old (USDI 2003).

In the Pilot EA, BLM provides no analysis to support its counter-factual assertions. First, Stream benefit from all sizes of wood, not just the largest wood that a stand is capable of producing. The Pilot EA fails to recognize that ecological functions in smaller streams can be met with relatively smaller wood. The stand to be logged currently provide ecologically and hydrologically functional wood, and the proposed logging would remove much of that wood. The EA discussion of fuels is instructive. It says that dead wood would increase, not decrease under the no action alternative and that large wood would be "extracted" under the action alternative: "Natural processes that increase live and dead fuels in the forest structure would continue. This increase in dead fuels would take place through self-pruning, stand mortality and wind throw." And "In the Riparian Reserve area where broadcast burning is proposed, larger fuels would be extracted …" (EA p 50).

Second, if this stand responds to thinning like many other dense stands analyzed by the BLM and USFS in recent years, more total wood and more large wood will likely be recruited under the no action alternative than by the density management alternative. See for instance, these charts from the Jazz Thin Project on the Mt Hood NF. No action produces more total wood and more large wood.



Jazz Thin, Mt Hood NF, 2011

http://a123.g.akamai.net/7/123/11558/abc123/forestservic.download.akamai.com/11558/www/nepa/66739_FSPLT2_062946.pdf

[Note: This analysis presents an average result from thinning plus adjacent untreated areas, such as riparian reserves.

See more examples here: Heiken, D. 2010. Dead Wood Response to Thinning: Some Examples from Modeling Work. http://dl.dropbox.com/u/47741/dead_wood_slides_2.pdf

The EA description of the effects of logging on riparian reserves are similarly flawed. "The increased growth rates, creation of spacing diversity, and snag and down log creation would improve development of late-successional forest characteristics such as multi-layered canopies, large diameter trees, large diameter dead wood, (both in-stream and forest floor), and diverse structure (Tappeiner et al. 1997)." And EA p 59 "The vegetation treatments would lead to an improved source of large wood recruitment at the site scale in the long-term." These statements are misleading because: (1) while logging might slightly increase the rate of growth on individual trees, the growth of the stand as a whole will decrease as a result of logging, (2) logging will export currently functional wood, (3) logging will dramatically reduce the recruitment pool for future recruitment of large wood, (4) logging will increase tree vigor and delay mortality processes which are necessary for recruitment of dead wood to streams and uplands, and (5) the analysis emphasizes the quality of dead wood (i.e. its size), with accounting for wood quantity (i.e. how many pieces will be recruited over time). BLM's analysis does not meet

NEPA's mandate for accurate and unbiased analysis that allows a clear and meaningful comparison of alternatives.

Improper View of ESA Requirements

Page 4 of the EA says that one of the purposes of the pilot is to:

> Protect, manage and conserve federally listed and proposed species and their habitats to achieve their recovery in compliance with the Endangered Species Act, approved recovery plans, and the Bureau Special Status Program (p.32) by:
>
> • Providing for important ecological functions such as dispersal of organisms, carryover of some species from one stand to the next and maintenance of ecologically valuable structural components such as down logs, snags and large trees (p.22).

This presumes that the prescribed mix of reserves and matrix established by the NWFP will achieve Endangered Species Act conservation and recovery goals. This assumption is unwarranted. When the NWFP was adopted the authors assumed that all *suitable* owl habitat was *available* to spotted owls. In the intervening 17 years, the barred owl population has increased exponentially within the range of the spotted owl. Barred owls use similar habitat and territorially exclude spotted owls. There is also substantial overlap in the diets of the two owls. In short, much of the suitable habitat that was assumed to be available to spotted owls, is now occupied and defend by barred owls to the detriment of spotted owls. The landscape proportion of reserves and matrix that seemed appropriate in 1994 is likely inadequate today. It is axiomatic that when two competing species share the same habitat, the chances of competitive exclusion increase as the habitat area is reduced (such as when suitable habitat in the matrix is subject to regen logging) and the chances of co-existence increase as the habitat area increases (such as when we conserve suitable habitat in the matrix and all suboptimal habitat to grow and develop).

Based on the new information about the barred owl, we can see that the NWFP reserves are too small and the matrix is too large. BLM cannot comply with the Endangered Species Act by simply meeting the requirements of a 17 year old plan that failed to account for the barred owl population expansion and the habitat limitations and competitive interactions of these two species.

Page 9 of the EA rejected any need to update the Matrix standards & guidelines, saying:

> **New information (e.g. barred owls) requires modification of Matrix objectives.**
>
> Rationale for Elimination: Changing the management direction for the Matrix land use allocation would require a RMP amendment or revision, which is beyond the scope of this project.

This is improper. BLM is avoiding the fundamental question of whether they can even rely on Matrix standards & guidelines that are outdated and lack programmatic NEPA analysis that accounts for new information on barred owls and climate change. BLM can't reject an important issue because it would require them to amend the RMP. BLM in fact has a duty to ensure that it is relying on legally adequate RMP and NEPA documents. When these documents become outdated, as they are, BLM must refrain from

implementing actions that would exacerbate adverse interactions between spotted owls and barred owls and actions that would produce significant carbon emissions until they have prepared a new EIS to consider these significant new issues.

Marbled Murrelet Conservation and Hardwood Conversion

The EA relies on "Recovery Action 3.3.1.1 (USDI 1997)" to support proposed "density management and hardwood conversion treatments" but there is no section 3.3.1.1 in the recovery plan. The 1997 Recovery Plan for the Marbled Murrelet does not appear to endorse hardwood conversion as a means of conserving marbled murrelets. Furthermore, the widely scattered conifers within the alder stands may in fact be good candidates to develop into murrelet nesting habitat in the future without logging. They will likely have high growth rates and large branches.

Page 144 of the 1997 Recovery Plan for the marbled murrelet says "evidence available at this time indicates that growing whole stands on long rotations will produce higher quality habitat in the long-term than green tree retention, which may create sink habitat for a number of bird species." This indicates that there are risks associated with the proposed treatment of the "buffer" stands adjacent to the suitable murrelet habitat. Stands that are thinned may increase the risk that murrelet nests could be found by murrelet predators such as corvids. These risks have not be properly evaluated by BLM.

The EA admits that "early-seral [shrub] species, … are desirable to corvids and other murrelet predators" but the EA does not disclose this potential adverse in the regeneration harvest areas, but only within the marbled murrelet buffer area.

The EA says that the adverse effects of hardwood conversion in terms of increasing the risk of marbled murrelet predation is outweighed by long term beneficial effects on habitat recruitment. However, it is unclear how planting 435 conifers per acre and establishing such as dense stand of conifers will contribute to marbled murrelet recovery. It will create a stand too dense to create the large tree and large branch structure favored by murrelets.

Scattered Retention Trees Must be Provided

Page 16 of the EA indicates that there would be approximately 40 individual retention trees scattered over 121 acres of clearcuts. EA page 15 seems to indicate that there may be "open areas" as large as ten acres. However, NWFP page C-42 requires at least 6-8 green trees per acre be retained in matrix logging projects on BLM lands. In other words, after logging, there should be no acre with fewer than 6 retained trees. If the RMP intended that retention trees could be average over several acres, the RMP would have said clearly that the requirement was to provide 60-80 trees per 10 acres, instead of saying 6-8 trees per acre.

NWFP page C-40 calls for "a *renewable* supply of large down logs, *well distributed* across the matrix …" The terms renewable and well-distributed both require an adequate *quantity* and *distribution* of green trees, but we do not see this analyzed in the EA Given the new information on the ecological and carbon value associated with down wood, we

question whether 10 acre "openings," or even 6-8 green trees per acre, meets the objective of renewable and well-distributed down wood.

Page 16 of the EA relies on standards & guidelines for snag habitat based on outdated "potential population" methodology. See Rose, C.L., Marcot, B.G., Mellen, T.K., Ohmann, J.L., Waddell, K.L., Lindely, D.L., and B. Schrieber. 2001. Decaying Wood in Pacific Northwest Forests: Concepts and Tools for Habitat Management, Chapter 24 in Wildlife-Habitat Relationships in Oregon and Washington (Johnson, D. H. and T. A. O'Neil. OSU Press. 2001) http://web.archive.org/web/20060708035905/http://www.nwhi.org/inc/data/GISdata/docs/chapter24.pdf BLM needs to update the RMP to ensure that adequate snags and down wood are retained to meet all biological needs and ecological functions.

Northern Spotted Owl

The stand to be clearcut is roosting, foraging, and dispersal habitat, and there is an inclusion of older forest that is suitable for nesting. A single male owl was located within the stand which is located between two stands of high quality spotted owl habitat. Clearcutting this forest will likely reduce the functionality of adjacent high quality habitat and render the inclusion of suitable nesting habitat, unsuitable for decades to come. Thinning this forest would have effects on spotted owls much different than either clearcutting or no action and should be considered.

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Sincerely,

Doug Heiken