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COUNCIL

Life, Land & Liberty

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Cover Letter for the Native Forest Council's Comment and Protest of the DEIS of the BLM "WOPR"

The Bureau of Land Management has been relentlessly stripping publicly-owned assets from the O&C lands ever since the O&C Act was put in place in 1937. They have exponentially exceeded any definition of reasonable or responsible levels of "sustainable harvest" and have rarely, if ever, fulfilled the letter or intention of the Act.

The public's vital and irreplaceable forests and watersheds have been plundered with the collusion and criminal misconduct of BLM managers, by logging industry operatives and local politicians, who were thrown a bone to keep them in line.

The trail of squandered publicly-owned assets winds from the bureaucratic morass of the BLM through the dishonest timber barons, and into the pockets of our local bought and paid for politicians. None of these politicians believe they can survive the ire of a disappointed, let alone angered, timber industry. The logging companies' special interest money always seems to carry the day.

The "WOPR" is yet another criminal, immoral, unethical plan to defraud the people of their assets. Assembled by a collection of industry shills and forwarded by "foresters" ("economic and environmental terrorists" anyone?), this document is not worth the paper it is written on. It deserves to be thoroughly damned and repudiated with prejudice.

Why has the BLM allowed the lungs of the planet, our public forests and watersheds, to be slaughtered and squandered so that a few robber barons and their shareholders can profit? Why has the BLM aided and abetted the fraudulent logging industry in this crime against nature, which, by extension has become a crime against humanity? Why would they do that? What would have them sell their children's future and possibly the very survival of our race to pad the pockets of a few greedy corporate parasites? Tree growing companies indeed! They never have and never will be able to replace a native cathedral forest. They don't know how.

That being said, here are the Comments and Protests that we have prepared in response to your egregious plan, a mockery of public process.

PO. Box 2190
Eugene, Oregon 97402

541-688-2600
fax 541-461-2156
www.forestcouncil.org



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This Comment and Protest has been prepared in response to the Draft Environmental Impact Statement for the Revision of the Management Plans of the Western Oregon Bureau of Land Management Districts.

After a rigorous review of the DEIS submitted for public comment of proposed revisions to the management plans for the public lands managed by the BLM in western Oregon, we find the plan lacking in many critical areas, illegal, and not in the best interest of the citizens of the United States of America who own these forests. In addition to the omission of science and a lack of discussion of a number of critically important issues, this document makes some claims that are not supported by the best available science.

It appears this document was compiled by selective use of data and scientific references to support a pre-determined preferred outcome—that outcome being the maximum cut rate possible while maintaining an *appearance* of compliance with existing laws and regulations. It is the position of The Native Forest Council that alternatives 1, 2, and 3 are all fatally flawed and that the no action alternative, while less destructive than the others still does not provide the protection and regard that our public forests, irreplaceable assets in the ongoing livability of our planet, deserve.

I. Legal Context

*1937 O & C Act: . . . timberlands . . . shall be managed . . . for **permanent forest production**, and the timber thereon shall be sold, cut, and removed in conformity with the principal of **sustained yield** for the purpose of providing a **permanent source of timber supply, protecting watersheds, regulating stream flow**, and contributing to the **economic stability** of local communities and industries*

*The **annual productive capacity** for such lands shall be **determined and declared** as promptly as possible after the passage of this act [Emphasis added.]*

For 70 years the BLM has successfully avoided establishing a permanent, scientifically sound determination of the "annual

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productive capacity" of the affected lands that complies with "permanent forest production . . . protecting watersheds," etc., required by the O&C Act of 1937.

This has allowed a condition of delay, resignation and chaos to exist inside the agency. Chaos has the agency scrambling to satisfy the timber industry, the O&C counties, the environmental groups, and other local stakeholders. To this point, the process has met with very limited success.

The "WOPR" was triggered by litigation which was brought by industry and the O&C counties to address a perceived lack of logging. That "perception" is an opportunistic spin that takes advantage of the vacuum created from the lack of a permanent, peer reviewed, scientifically valid determination of what constitutes a sustainable forest.

In this vacuum, other laws, NFMA, NEPA, The Northwest Forest Plan, *et al.*, have been forwarded to try and create long-term workability on our federal lands. These laws attempt to protect the value of our public lands and the complex forest ecosystems that exist there. They are the best protections we have at this time. To abandon them and implement unproven and deceptively selective "science" in our priceless public forests violates statutory law and constitutional principles of the general welfare. A number of statutes apply. For example, federal land managers must maintain habitat for migratory birds,¹ use an ecosystem approach to assess effects of their activities,² comply with air quality standards in the Clean Air Act designed to "protect the public welfare,"³ and reduce harm to EPA's "303(d)" listed waters,⁴ to name just a few.

The Precautionary Principle (impeccable common sense) tells us that until we have a proven plan to shift things for the better, we must err on the side of protection. The BLM must establish rigid standards that define and describe sustainable management on our public lands before cutting another road or tree. The "WOPR" does not do that.

II. Critical Gaps in Analysis

A. Valuation, accounting, econometrics

The entire analysis of impacts is done without a baseline of economic and ecological values and without valid cost accounting of the alternative proposals for action on the ground. There is no comprehensive discussion of what these forests provide to the public as standing, living, breathing complex ecological systems,

¹ Migratory Bird Treaty Act, 16 USC 703 *et seq.*

² *See*, 40 CFR 1508.8.

³ *See*, 42 USC 7409(b)(2)

⁴ Clean Water Act, 33 USC 1313(d).

including the “ecological services” performed by these irreplaceable ancient forests.

There is no definition of “normal market conditions” and no discussion under what conditions logging or sales would be suspended because of “abnormal” market conditions as required by the O&C Act. There is no discussion of poor market conditions (including the current glut of wood products) and the effect of these conditions on the counties that depend on BLM logging to provide basic services. These conditions would further deteriorate with the proposed large increase in the volume of trees being cut. Market conditions have deteriorated even since this DEIS was written.

There is no discussion as to the value of these forests and activities in the forests. What would it cost to buy them? What would it cost to replace them? What does it cost to log them? Why are these costs not transparent? Who pays to have these trees removed? Replaced? Who profits? Where is the public accounting on which to base responsible comments?

There is no discussion of how the new stewardship authorities would apply to the O&C lands managed by the BLM. Do the new authorities trump the O&C Act? Could the harvest levels mandated by the "WOPR" be shunted into stewardship contracts, effectively leaving any funding for the O&C counties out of the equation? What is the BLM's responsibility for interpreting parallel authorities on behalf of O&C counties and for keeping the affected public informed in a realistic and timely manner?

The lack of clear accounting data in the WOPR makes it impossible to discern whether *any* of the logging being proposed under this plan can be done ethically, morally, or profitably. The General Accountability Office has been unable to determine the true costs of administering USFS and BLM timber sales because of obscure accounting practices and untracked administrative costs being paid for out of other divisions within the agencies. On top of covert accounting, no value is assigned to the forest as a complex, life giving ecosystem.

Our position is that the BLM should cease all sales until the true costs of all sales are covered, with honest and fully costed accounting, all externalities included. This means damage to infrastructure, fisheries, water treatment expenses, dam capacity reduction, tourism/recreation, carbon emissions, air quality/health and wellbeing issues associated with smoke, endangered species mitigation, flooding, landslides, property damage and any other issues that will occur as a direct result of the implementation of these practices. Watershed and infrastructure destruction, increased flooding, landslides, and loss of jobs in the farming, recreation, and fishing industry are all probable outcomes of these alternatives and do not meet the requirement of the O&C Act of “contributing to the economic stability of local communities” It would be crystal clear if these social and

physical costs were all factored into the equation that there is *no value* to the public in removing any more of these forests in our lifetime. There are in fact, *great costs and hazards*. And, it would show that the American taxpayer is actually subsidizing the liquidation of our ancient forests and, in the process, subsidizing the logging industry to our detriment.

B. Missing, deceptive, and ridiculous "science"

Carbon Sequestration:

There is no discussion of what the impact of the forest's possible removal would be on the worsening global climate situation. There is no valuation given for the trees standing as carbon sinks, nor the difference between small trees and large for surface carbon absorption. Living, growing forests are one of the most efficient systems known to remove carbon dioxide from the atmosphere and store it for extended periods of time. Of all the proposed alternatives, WOPR Alternative 2 removes the most volume and therefore will contribute the largest amount of greenhouse gas to our atmosphere. How much carbon dioxide will the various alternatives contribute? Why was this not included? How much carbon is currently stored and how much will be sequestered each year in these living public forests? Why was net loss and gain not provided? How will the loss of these services increase our national and regional carbon debt in the coming carbon economy?

Water/Fisheries:

The proposed revisions do not assign any value to the water generation, purification, and absorption processes present in a living forest. Tall, thick canopies in an ancient forest catch snow, block wind exposure, and freeze and thaw slowly. This delays and protracts the runoff from these stands during heavy rains and snowmelt events, reducing slides and floods. These conditions preserve coolness and moisture in the forest, reducing summer flammability long after clear-cuts, thins, and young replacement stands are hot and dry, and also releasing cooler water into fish-bearing streams further into the summers.

Complex forest conditions are a profoundly effective absorption and filtration system that cleans water and minimizes peak flow, river level spiking, sedimentation, and damage to fisheries. The O&C act is very clear that these forests shall be managed in a way that results in "protecting watersheds [and] regulating stream flow." All three action alternatives of the WOPR reduce watershed protections and radicalize water flow levels and therefore would appear to be in violation of the O&C Act.

This set of revisions does not discuss large flood and rain/snow melt events and the impact they would have on the 13,679 miles of intermittent streams from

which the WOPR would remove riparian protection. One has to look no farther than the Dec., 2007 flooding in the Chehalis, Washington area to see the horrific impact of clear-cutting on intermittent streams and as a result, on year-round streams. In the DEIS, BLM states that there is no model to predict or quantify exact mechanisms of delivery of sediment, so they cannot predict effect of that delivery on fish.⁵ It is very clear that logging and forest roads in combination with large rain, rain/snowmelt events are the most powerful mechanisms for mass soil movement and debris flow generation that occur on these lands. These mechanisms were well known even when the O&C Act was authored, which is why watershed protection was included in the Act. Clear-cutting over seasonal streams has been shown to increase the number and severity of these slides.

The DEIS, however, ignores this science and does not predict what floods and slides in logged over areas will do to drinking water, spawning beds, roads, or infrastructure downstream from these lands. The discussion in the DEIS about fish is all done with no modeling of large flood events. No model of siltation from active logging operations is put forward. Floods and active logging both produce spiking of silt and sediment that are significant.

Since large flood events and the erosion off of roads are the primary delivery systems of sediment which chokes spawning beds, the information in the DEIS is at least to some extent immaterial. It seems a lot of effort has been spent putting together a rosy outlook for the affected streams based on dishonest science and omission. It is clear that logged over seasonal streams will contribute huge amounts of sediment and rubble to the year-round streams whenever one of these flood events takes place. This will have a detrimental effect on listed fish species and our drinking water supplies. The DEIS omits these impacts. Why?

Air Quality:

All of the alternatives put forth by the "WOPR" worsen the fire risk in these public forests. Alternative 2, preferred by the BLM, leaves our public forests the most vulnerable to fire. This is clearly not in the best interest of the public. Wildfires exceed air quality standards over large areas and over time putting human health at risk. At this time of increasing global temperatures it makes no sense to knowingly create conditions more conducive to wildfire. Private industrial "salvage" profit is not enough.

C. Intentional outcome

Without a clear, supported, intended result of management, decisions such as the current DEIS are haphazard, reactive, and conflict over time resulting in a

⁵ DEIS p 356

tremendous waste of time, loss of habitat and forest, and a failure to learn from mistakes. For example, why does this plan call for clear-cutting (regeneration harvesting)—the most damaging type of logging—to “maximize potential growth and yield,”⁶ when the O&C Act of 1937 never says a word about maximizing growth or yield?

The O&C Act of 1937 calls for *sustained yield* not maximum yield. It also calls for a determination of what that is. Sustained yield and maximum yield are distinct from each other. Maximum yield is not sustainable. Even in 1937, the people and their representatives in Congress were aware of the wasting of soils and water from reckless and excessive tree cutting and road building, and the resulting degradation (unsustainability) to the forests. Yet the BLM continues to lobby for these egregious practices.

The definition in Webster’s Encyclopedic Unabridged Dictionary of the English Language⁷ for the word sustain is “to keep up or to keep going, as in an action or process.” This is a far cry from the BLM’s definition in the DEIS, as follows:

“Sustainability can be defined as using, developing and protecting resources in a manner that enables people to meet current needs and provides that future generations can also meet future needs, from the joint perspective of environmental, economic and community objectives.”

This is a *very creative* abstraction, but sustainability has nothing to do with people’s needs, or generational entitlements. Sustainability speaks to conditions on the ground. In order to sustain a permanent, steady product from a forest, one cannot clear-cut it. Extraction processes that obliterate large patches of microbial and symbiotic fungal communities, that lay waste to soil stability and water-retaining humus, that expose undergrowth to hot, drying winds and solar exposure, cannot be considered to “sustain” the forest. They are just reckless, quick-gratification consumption.

What is abundantly clear is that these proposed revisions maintain a maximum outflow of trees from our public forests, with priority on the larger trees first, with shrinking iterations of stump size over time, as the largest are liquidated until finally we are down to industrial fiber and biomass consumption from increasingly unproductive soils—“cessation yield.” That’s not a forest. What is also clear is that this plan does not provide any clear assurance of community financial stability or environmental sustainability. Removal of permanent forests specifically violates responsible watershed and streamflow management and economic stability under the O&C Act. More generally, the DEIS violates General

⁶ DEIS p 72

⁷ 1989, dilithium Press, Ltd.

Welfare and NEPA responsibilities for the management and protection of the public assets that are a foundation of our climate, water, wildlife, soil stability, health, forest fire moderation, recreation opportunities and ultimately, the quality and survival of human life in this region.

III. Conclusion: Operating on top of an illegal, immoral, and irresponsible lack of standards

The science used to justify the removal of ancient stands on public lands seems to get more convoluted, abstract and disconnected from ground truth over time. The only consistent demand is that more of the primeval forests be opened up for logging. The science always morphs to match the industries' desired outcome. What is needed is a comprehensive definition of what outcome we are committed to creating. Much of the "science" that the WOPR alternatives are based on is "new." The "modeling" is based on theory and has never been tried in practice. There is no strict framework that fulfills the O&C Act's demand for sustainability.

This lack of distinct, on the ground, acceptable conditions clearly violates the demand of the O&C Act to promptly define sustainability and set it up as the baseline for all further action. If there is any doubt as to the impact of a specific management choice, then the precautionary principle must be used so as to ***do no damage*** and minimize, if not eliminate risk of harm. This, in combination with a full accounting of all variables, provides the best chance of creating a truly sustainable plan for our public land. There are plenty of ground examples and valid studies to answer most relevant impact questions. BLM managers and logging company executives have just not liked the answers, so they're avoided in sophistry and misdirection.

Constantly changing the definitions of science to fit the political mood or demand of the timber industry does not cut it. We must set up inflexible, outcome-based standards and stick with them until ***proven*** improvements are available. Then and only then should we allow those standards to evolve. The science in the WOPR does not fulfill this demand. It is clear that it does not meet the requirements of the O&C Act, the needs of wildlife, and most importantly the basic values, laws and needs of our nation and civilization. It's a loser and should be thrown out.

We can and must do better.