

*Director's Protest Resolution Report*

**Western Oregon  
Resource Management Plan  
Revisions**

Salem, Eugene, Roseburg, Coos Bay,  
Medford District Offices, and  
the Klamath Falls Resource Area  
of the Lakeview District Office

December 29, 2008



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## Reader's Guide

### *How do I read the Report?*

The Director's Protest Resolution Report is divided up into sections, each with a topic heading, excerpts from individual protest letters, a summary statement (as necessary), and the BLM's response to the summary statement.

### **Report Snapshot**

**Issue Topics and Responses**

NEPA — Topic heading

Submission number

Protest issue number

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**Issue Number:** PP-CA-ESD-08-0020-10

**Organization:** The Forest Initiative — Protesting organization

**Protester:** John Smith — Protester's name

**Issue Excerpt Text:** — Direct quote taken from the submission

Rather than analyze these potential impacts, as required by NEPA, BLM postpones analysis of renewable energy development projects to a future case-by-case analysis.

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**Summary** — General statement summarizing the issue excerpts (optional).

There is inadequate NEPA analysis in the PRMP/FEIS for renewable energy projects.

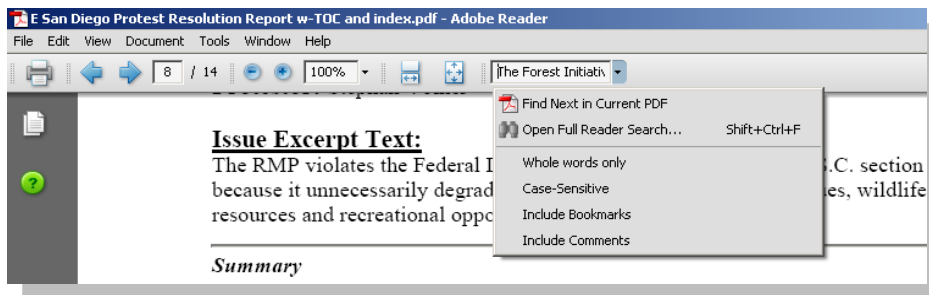
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**Response** — BLM's response to the summary statement or issue excerpt if there is no summary.

Specific renewable energy projects are implementation-level decisions rather than RMP-level

### *How do I find my Protest Issues and Responses?*

1. Find your submission number on the protesting party index which is organized alphabetically by protester's last name.
2. In Adobe Reader search the report for your name, organization or submission number (do not include the protest issue number). Key word or topic searches may also be useful.



3. Unique issues raised by protesters will be shown individually in the Director's Protest Resolution Report. In cases where identical issue excerpts were received from numerous protesting parties, these issue excerpts were grouped for the purposes of report readability and to eliminate redundancy. Duplicate issue excerpts are identified in Appendix A and B of the report along with a list of the names of the protesters that submitted them. Protester names are listed alphabetically. Appendix A and B include links to the specific protest excerpts in the report where protesters will find the responses to these issues.

### List of Commonly Used Acronyms

ACEC	Area of Critical Environmental Concern	IB	Information Bulletin
APD	Application for Permit to Drill	IM	Instruction Memorandum
BA	Biological Assessment	MOU	Memorandum of Understanding
BLM	Bureau of Land Management	NEPA	National Environmental Policy Act of 1969
BMP	Best Management Practice	NHPA	National Historic Preservation Act of 1966, as amended
BO	Biological Opinion	NOA	Notice of Availability
CAA	Clean Air Act	NOI	Notice of Intent
CEQ	Council on Environmental Quality	NRHP	National Register of Historic Places
CFR	Code of Federal Regulations	NSO	No Surface Occupancy
COA	Condition of Approval	OHV	Off-Highway Vehicle (has also been referred to as ORV, Off Road Vehicles)
CSU	Controlled Surface Use	RFDS	Reasonably Foreseeable Development Scenario
CWA	Clean Water Act	RMP	Resource Management Plan
DM	Departmental Manual (Department of the Interior)	ROD	Record of Decision
DOI	Department of the Interior	ROW	Right-of-Way
EA	Environmental Assessment	SHPO	State Historic Preservation Officer
EIS	Environmental Impact Statement	SO	State Office
EO	Executive Order	T&E	Threatened and Endangered
EPA	Environmental Protection Agency	USC	United States Code
ESA	Endangered Species Act	USGS	U.S. Geological Survey
FEIS	Final Environmental Impact Statement	VRM	Visual Resource Management
FLPMA	Federal Land Policy and Management Act of 1976	WA	Wilderness Area
FO	Field Office (BLM)	WSA	Wilderness Study Area
FWS	U.S. Fish and Wildlife Service	WSR	Wild and Scenic River(s)
GIS	Geographic Information Systems		



**Protesting Party Index**

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
	Board of Commissioners for Josephine County, State of Oregon	PP-OR-WOPR-09-0163	Denied-Issues Comments
	Native Plant Society of Oregon	PP-OR-WOPR-09-0246	Denied-Issues Comments
Adams, David	Individual	PP-OR-WOPR-09-0112	Denied-Issues Comments
Allen, Vinit	Individual	PP-OR-WOPR-09-0022	Dismissed-Only Comments
Allison, Gretchen	Individual	PP-OR-WOPR-09-0037	Dismissed-Only Comments
Anderson, Neal	Individual	PP-OR-WOPR-09-0218	Denied-Issues Comments
Artura, Debra	Individual	PP-OR-WOPR-09-0075	Denied-Issues Comments
Austin, Cynthia	Individual	PP-OR-WOPR-09-0178	Denied-Issues Comments
Ayars, Tim	Individual	PP-OR-WOPR-09-0244	Denied-Issues Comments
Ballantine, John	Individual	PP-OR-WOPR-09-0141	Denied-Issues Comments
Behm, Charlotte	Individual	PP-OR-WOPR-09-0139	Denied-Issues Comments
Behm, Harriet	Individual	PP-OR-WOPR-09-0138	Denied-Issues Comments
Bell, Brenna	Willamette Riverkeeper	PP-OR-WOPR-09-0204	Denied-Issues Comments
Bell, Brenna	Willamette Riverkeeper	PP-OR-WOPR-09-0233	Denied-Issues Comments
Bell, Wayne H.	Maryland Ornithological Society, Inc.	PP-OR-WOPR-09-0202	Denied-Issues Comments
Bennett, Harry	Individual	PP-OR-WOPR-09-0241	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Bishoprick, William	Individual	PP-OR-WOPR-09-0085	Denied-Issues Comments
Bitner, Pat	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Boyles, Kristen L.	Earthjustice	PP-OR-WOPR-09-0204	Denied-Issues Comments
Brandt, Roger	Individual	PP-OR-WOPR-09-0142	Denied-Issues Comments
Brandt, Roger	Individual	PP-OR-WOPR-09-0143	Denied-Issues Comments
Bratt, Christopher	Individual	PP-OR-WOPR-09-0225	Dismissed-Only Comments
Brodsky, Steve	Individual	PP-OR-WOPR-09-0121	Denied-Issues Comments
Bryant, Elizabeth	Individual	PP-OR-WOPR-09-0047	Denied-Issues Comments
Butler, Antoinette	Individual	PP-OR-WOPR-09-0055	Denied-Issues Comments
Calahan, David P.	Individual	PP-OR-WOPR-09-0265	Denied-Issues Comments
Camp, Mary	Deer Creek Valley Natural Resources Conservation Association	PP-OR-WOPR-09-0227	Denied-Issues Comments
Camp, Orville	Camp Forest	PP-OR-WOPR-09-0227	Denied-Issues Comments
Campbell, Burce	Individual	PP-OR-WOPR-09-0260	Denied-Issues Comments
Canepa, Judith K.	Individual	PP-OR-WOPR-09-0151	Denied-Issues Comments
Caples, Tom	Individual	PP-OR-WOPR-09-0029	Denied-Issues Comments
Cappella, Jeannette	Individual	PP-OR-WOPR-09-0251	Dismissed-Only Comments
Carlson, Mary Ann	Individual	PP-OR-WOPR-09-0185	Denied-Issues Comments
Carlson, Steve	Individual	PP-OR-WOPR-09-0181	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Carsten, Diana	Individual	PP-OR-WOPR-09-0049	Dismissed-Only Comments
Cassell, Faris	Individual	PP-OR-WOPR-09-0099	Denied-Issues Comments
Cervine, Steven	Individual	PP-OR-WOPR-09-0070	Denied-Issues Comments
Chapin, Carol	Individual	PP-OR-WOPR-09-0165	Denied-Issues Comments
Chapin, Lawrence	Individual	PP-OR-WOPR-09-0164	Denied-Issues Comments
Chester, Colby	Individual	PP-OR-WOPR-09-0053	Denied-Issues Comments
Ciancibelli, Allison	Individual	PP-OR-WOPR-09-0123	Dismissed-Only Comments
Clarkson, Melody	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Clarkson, Melody and Jim	Individual	PP-OR-WOPR-09-0262	Denied-Issues Comments
Clover, Jim and Annette Parsons	Individual	PP-OR-WOPR-09-0231	Denied-Issues Comments
Cohen, Josh and Corinne	Individual	PP-OR-WOPR-09-0083	Denied-Issues Comments
Cohen, Marylin	Individual	PP-OR-WOPR-09-0186	Dismissed-Only Comments
Connors, Michael	Individual	PP-OR-WOPR-09-0044	Denied-Issues Comments
Council, Jennifer	Individual	PP-OR-WOPR-09-0236	Denied-Issues Comments
Cowger, Kelly	Individual	PP-OR-WOPR-09-0013	Denied-Issues Comments
Cox, Leslie and Mike State	Individual	PP-OR-WOPR-09-0229	Denied-Issues Comments
Crittenden, Charles	Individual	PP-OR-WOPR-09-0250	Denied-Issues Comments
Datz, Michael and Jody	Individual	PP-OR-WOPR-09-0043	Denied-Issues Comments
Davis, Daniel and Tana Domecq Davis	Individual	PP-OR-WOPR-09-0248	Dismissed-Only Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Davis, Kevin Q.	Association of O&C Counties	PP-OR-WOPR-09-0156	Denied-Issues Comments
Degulis, Garry	Individual	PP-OR-WOPR-09-0100	Denied-Issues Comments
Denison, Lou Ann	Individual	PP-OR-WOPR-09-0063	Denied-Issues Comments
Denny, Rachel	Individual	PP-OR-WOPR-09-0131	Dismissed-Only Comments
Dickens, Bart	Individual	PP-OR-WOPR-09-0115	Denied-Issues Comments
Donelson, Bruce	Individual	PP-OR-WOPR-09-0249	Denied-Issues Comments
Donoghue, John	Individual	PP-OR-WOPR-09-0170	Denied-Issues Comments
Douglas, Robert	Individual	PP-OR-WOPR-09-0198	Denied-Issues Comments
Doyle, Greg and Lynn	Individual	PP-OR-WOPR-09-0259	Denied-Issues Comments
Drake, Stacy	Individual	PP-OR-WOPR-09-0133	Dismissed-Only Comments
Duggan, John F.	Individual	PP-OR-WOPR-09-0230	Denied-Issues Comments
Duggan, Sharon	Public Employees for Environmental Responsibility	PP-OR-WOPR-09-0205	Denied-Issues Comments
Earl, Julia	Individual	PP-OR-WOPR-09-0021	Denied-Issues Comments
Eatherington, Francis	Umpqua Watersheds, Inc.	PP-OR-WOPR-09-0204	Denied-Issues Comments
Eatherington, Francis	Umpqua Watersheds, Inc.	PP-OR-WOPR-09-0235	Denied-Issues Comments
Egger, Rebecca	Individual	PP-OR-WOPR-09-0134	Dismissed-Only Comments
Eikleberry, Burt	Individual	PP-OR-WOPR-09-0242	Denied-Issues Comments
Euritt, Camille	Individual	PP-OR-WOPR-09-0150	Denied-Issues Comments
Fairbank, Adi	Individual	PP-OR-WOPR-09-0155	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Fitch, Derryl	Individual	PP-OR-WOPR-09-0182	Denied-Issues Comments
Fitch, Theresa	Individual	PP-OR-WOPR-09-0172	Denied-Issues Comments
Francis, Linda	Individual	PP-OR-WOPR-09-0128	Dismissed-Only Comments
Franklin, Toni	Individual	PP-OR-WOPR-09-0056	Denied-Issues Comments
Freimark, Robert	The Wilderness Society	PP-OR-WOPR-09-0204	Denied-Issues Comments
Fremery, Lexie de	Individual	PP-OR-WOPR-09-0067	Denied-Issues Comments
Freund, Richard D.	Individual	PP-OR-WOPR-09-0215	Denied-Issues Comments
Fusco, Carol Anne	Individual	PP-OR-WOPR-09-0025	Denied-Issues Comments
Gabriel, Susan	Individual	PP-OR-WOPR-09-0234	Denied-Issues Comments
Gale, Carole	Individual	PP-OR-WOPR-09-0206	Denied-Issues Comments
Genasci, Elaine	Individual	PP-OR-WOPR-09-0114	Denied-Issues Comments
Gessert, Kate	Individual	PP-OR-WOPR-09-0136	Denied-Issues Comments
Gessert, Kate	Individual	PP-OR-WOPR-09-0137	Denied-Issues Comments
Gessert, Kate	Individual	PP-OR-WOPR-09-0140	Denied-Issues Comments
Gibson, James	Individual	PP-OR-WOPR-09-0010	Denied-Issues Comments
Gicking, Barbara and Richard	Individual	PP-OR-WOPR-09-0009	Denied-Issues Comments
Gilbert, Robin	Individual	PP-OR-WOPR-09-0250	Denied-Issues Comments
Gonsman, Jim	Individual	PP-OR-WOPR-09-0106	Denied-Issues Comments
Goodwin, Margaret	Individual	PP-OR-WOPR-09-0173	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Graham, Peter	Individual	PP-OR-WOPR-09-0059	Dismissed-Only Comments
Greacen, Scott	Environmental Protection Information Center	PP-OR-WOPR-09-0204	Denied-Issues Comments
Greathouse Neel, Donna	Individual	PP-OR-WOPR-09-0089	Denied-Issues Comments
Greenwald, Noah	Center for Biological Diversity	PP-OR-WOPR-09-0204	Denied-Issues Comments
Gregory, Probyn	Individual	PP-OR-WOPR-09-0203	Denied-Issues Comments
Griffith, Roland	Individual	PP-OR-WOPR-09-0057	Denied-Issues Comments
Gripp, Gary	Individual	PP-OR-WOPR-09-0058	Denied-Issues Comments
Haehlen, Heidi	Individual	PP-OR-WOPR-09-0245	Denied-Issues Comments
Harelson, Cynthia	Individual	PP-OR-WOPR-09-0211	Denied-Issues Comments
Hayden, Mary	Individual	PP-OR-WOPR-09-0095	Denied-Issues Comments
Heiken, Doug	Oregon Wild	PP-OR-WOPR-09-0204	Denied-Issues Comments
Heiken, Doug	Oregon Wild & Klamath Siskiyou Wildlands Center	PP-OR-WOPR-09-0228	Denied-Issues Comments
Hernandez, Eugene	Individual	PP-OR-WOPR-09-0250	Denied-Issues Comments
Hervert, Carla	Individual	PP-OR-WOPR-09-0171	Denied-Issues Comments
Hice, Dilbert and Patricia	Individual	PP-OR-WOPR-09-0243	Denied-Issues Comments
Hills, Roxy	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Holliday, Elizabeth	Individual	PP-OR-WOPR-09-0157	Denied-Issues Comments
Holmer, Steve	American Bird Conservancy	PP-OR-WOPR-09-0202	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Horstmann, Judith	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Hurst, Gary	Individual	PP-OR-WOPR-09-0032	Denied-Issues Comments
Ingalsbe, Marita	Individual	PP-OR-WOPR-09-0174	Denied-Issues Comments
Jacobson, Don	Individual	PP-OR-WOPR-09-0129	Denied-Issues Comments
Jimerfield, Shane	Siskiyou Project	PP-OR-WOPR-09-0204	Denied-Issues Comments
Johnson, Ara	Individual	PP-OR-WOPR-09-0041	Denied-Issues Comments
Johnson, Janet	Individual	PP-OR-WOPR-09-0018	Dismissed-Only Comments
Johnson, Marvin	Individual	PP-OR-WOPR-09-0154	Denied-Issues Comments
Jordan, Everett	Individual	PP-OR-WOPR-09-0212	Denied-Issues Comments
Joyce, Bonnie	Individual	PP-OR-WOPR-09-0213	Denied-Issues Comments
Joyce, Mary Anne	Individual	PP-OR-WOPR-09-0014	Denied-Issues Comments
Kame'enui, Brenda	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Kelly, Kim	Individual	PP-OR-WOPR-09-0033	Dismissed-Only Comments
Kennedy, Arthur	Individual	PP-OR-WOPR-09-0113	Denied-Issues Comments
Khalsa, Mha Atma S	Individual	PP-OR-WOPR-09-0048	Dismissed-Only Comments
Kimmel, Charels and Reida	Individual	PP-OR-WOPR-09-0110	Dismissed-Only Comments
Kingsnorth, Carolyn	Individual	PP-OR-WOPR-09-0257	Denied-Issues Comments
Kingsnorth, Robert	Individual	PP-OR-WOPR-09-0232	Denied-Issues Comments
Kirkpatrick, Kit	Individual	PP-OR-WOPR-09-0176	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Kirks, James	Individual	PP-OR-WOPR-09-0068	Denied-Issues Comments
Kittredge, Kimberly	Individual	PP-OR-WOPR-09-0195	Denied-Issues Comments
Klein, Vanessa	Individual	PP-OR-WOPR-09-0036	Denied-Issues Comments
Knapp, Lloyd	Individual	PP-OR-WOPR-09-0168	Dismissed-Only Comments
Kober, John	Pacific Rivers Council	PP-OR-WOPR-09-0223	Denied-Issues Comments
Kosterman, Peter	Individual	PP-OR-WOPR-09-0130	Denied-Issues Comments
Kostromitina, Yuliya	Individual	PP-OR-WOPR-09-0020	Denied-Issues Comments
Kracke, David	Individual	PP-OR-WOPR-09-0026	Denied-Issues Comments
Kruse, Daniel	Cascadia Wildlands Project	PP-OR-WOPR-09-0204	Denied-Issues Comments
Kruse, Daniel	Cascadia Wildlands Project	PP-OR-WOPR-09-0233	Denied-Issues Comments
Kugler, Peter	Individual	PP-OR-WOPR-09-0086	Denied-Issues Comments
Kuhns, Don	Individual	PP-OR-WOPR-09-0096	Denied-Issues Comments
Lawther, Bridget	Individual	PP-OR-WOPR-09-0028	Dismissed-Only Comments
LeBlanc, Genevieve	Individual	PP-OR-WOPR-09-0087	Denied-Issues Comments
LeGue, Chandra	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Lemaster, Sharon	Individual	PP-OR-WOPR-09-0180	Denied-Issues Comments
Lexow, David	Motorcycle Riders Association	PP-OR-WOPR-09-0219	Denied-Issues Comments
Lish, Christopher	Individual	PP-OR-WOPR-09-0081	Denied-Issues Comments
Lisman, Gary	Individual	PP-OR-WOPR-09-0224	Denied-Issues Comments



<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Litak, Carolyn K.	Individual	PP-OR-WOPR-09-0253	Dismissed-Only Comments
Litak, Robert K.	Individual	PP-OR-WOPR-09-0256	Denied-Issues Comments
Long, Chris	Individual	PP-OR-WOPR-09-0080	Denied-Issues Comments
Lutter, Matthew	Individual	PP-OR-WOPR-09-0175	Denied-Issues Comments
Lyford, Gordon	Individual	PP-OR-WOPR-09-0007	Denied-Issues Comments
Maluski, Ivan	Oregon Chapter Sierra Club	PP-OR-WOPR-09-0204	Denied-Issues Comments
Marangio, Michael	Individual	PP-OR-WOPR-09-0066	Denied-Issues Comments
Martinez, Justine T.	Individual	PP-OR-WOPR-09-0153	Dismissed-Only Comments
Matera, Stephen	Individual	PP-OR-WOPR-09-0054	Denied-Issues Comments
Matthews, Ethan	Individual	PP-OR-WOPR-09-0103	Denied-Issues Comments
Maxwell, David	Individual	PP-OR-WOPR-09-0158	Denied-Issues Comments
McBrien, Carol	Individual	PP-OR-WOPR-09-0122	Denied-Issues Comments
McBride, Gregg Patrick and Deborah	Individual	PP-OR-WOPR-09-0179	Denied-Issues Comments
McClain, Barbara	Individual	PP-OR-WOPR-09-0214	Denied-Issues Comments
McClatchey, Walter	Individual	PP-OR-WOPR-09-0073	Denied-Issues Comments
McCombs, Richard	Individual	PP-OR-WOPR-09-0034	Denied-Issues Comments
McGuire, Michael I.	Individual	PP-OR-WOPR-09-0240	Denied-Issues Comments
McIlroy, Julia	Individual	PP-OR-WOPR-09-0046	Denied-Issues Comments
McShehey, Jenny	Individual	PP-OR-WOPR-09-0237	Dismissed-Only Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Meier, Courtney	Individual	PP-OR-WOPR-09-0030	Denied-Issues Comments
Melillo, Edward	Individual	PP-OR-WOPR-09-0052	Denied-Issues Comments
Miller, Edward	Individual	PP-OR-WOPR-09-0019	Denied-Issues Comments
Mintkeski, Walt	Individual	PP-OR-WOPR-09-0011	Denied-Issues Comments
Mondale, William M	Individual	PP-OR-WOPR-09-0261	Denied-Issues Comments
Montalbano, Chriss	Individual	PP-OR-WOPR-09-0051	Denied-Issues Comments
Moore Jr., James F.	Individual	PP-OR-WOPR-09-0117	Denied-Issues Comments
Moore, Jean B.	Individual	PP-OR-WOPR-09-0183	Denied-Issues Comments
Moore, Margaret	Individual	PP-OR-WOPR-09-0060	Denied-Issues Comments
Mork, Dick	Individual	PP-OR-WOPR-09-0102	Denied-Issues Comments
Morris, Barbara	Individual	PP-OR-WOPR-09-0169	Denied-Issues Comments
Moss, Paul	Individual	PP-OR-WOPR-09-0074	Denied-Issues Comments
Movsky, Rick	Individual	PP-OR-WOPR-09-0017	Denied-Issues Comments
Naapi, Leo	Individual	PP-OR-WOPR-09-0167	Dismissed-Only Comments
Nardello, Sharon	Individual	PP-OR-WOPR-09-0088	Denied-Issues Comments
Nault, Lisa-Marie	Individual	PP-OR-WOPR-09-0050	Denied-Issues Comments
Nauman, Richard S.	National Center for Conservation Science & Policy	PP-OR-WOPR-09-0207	Denied-Issues Comments
Nawa, Richard K.	Siskiyou Project	PP-OR-WOPR-09-0226	Denied-Issues Comments
Neff, Jack	Individual	PP-OR-WOPR-09-0220	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Nilsen, Janine	Individual	PP-OR-WOPR-09-0208	Denied-Issues Comments
O'Harrow, Nancy	Individual	PP-OR-WOPR-09-0119	Denied-Issues Comments
Oltion, Jerry	Individual	PP-OR-WOPR-09-0189	Denied-Issues Comments
Orsini, Alice	Individual	PP-OR-WOPR-09-0069	Denied-Issues Comments
Ost, John	Individual	PP-OR-WOPR-09-0039	Denied-Issues Comments
Pannke, Heidi	Individual	PP-OR-WOPR-09-0146	Denied-Issues Comments
Parker, Lori	Individual	PP-OR-WOPR-09-0094	Denied-Issues Comments
Partin, Tom	American Forest Resource Council	PP-OR-WOPR-09-0006	Denied-Issues Comments
Patterson, Nellie D.	Individual	PP-OR-WOPR-09-0216	Denied-Issues Comments
Patton, Ronald	Individual	PP-OR-WOPR-09-0200	Denied-Issues Comments
Paulson, Robert	Individual	PP-OR-WOPR-09-0126	Denied-Issues Comments
Pellett, Gary	Individual	PP-OR-WOPR-09-0042	Denied-Issues Comments
Pentland, Tom	Individual	PP-OR-WOPR-09-0210	Denied-Issues Comments
Peters, David A.	Individual	PP-OR-WOPR-09-0082	Denied-Issues Comments
Phillips, John	Individual	PP-OR-WOPR-09-0008	Denied-Issues Comments
Phillips, Nancy D.	Individual	PP-OR-WOPR-09-0097	Denied-Issues Comments
Phillips, Stuart	Individual	PP-OR-WOPR-09-0002	Dismissed-Only Comments
Picciani, Lauren	Individual	PP-OR-WOPR-09-0197	Denied-Issues Comments
Pierce, Lona	Individual	PP-OR-WOPR-09-0149	Dismissed-Only Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Platter, Daniel L	Individual	PP-OR-WOPR-09-0091	Denied-Issues Comments
Pratt, Margaret	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Propp, Janet	Individual	PP-OR-WOPR-09-0201	Denied-Issues Comments
Quinn, Joseph Patrick	Individual	PP-OR-WOPR-09-0005	Denied-Issues Comments
Ralls, Richard	Individual	PP-OR-WOPR-09-0147	Denied-Issues Comments
Rasmussen, Randy	Natural Trails & Waters Coalition	PP-OR-WOPR-09-0204	Denied-Issues Comments
Rehder, Melissa	Individual	PP-OR-WOPR-09-0040	Denied-Issues Comments
Reid, Janice	Individual	PP-OR-WOPR-09-0124	Denied-Issues Comments
Rennie, Deborah	Individual	PP-OR-WOPR-09-0071	Denied-Issues Comments
Rennie, Drummond	Individual	PP-OR-WOPR-09-0072	Denied-Issues Comments
Reynolds, Paul and Leslye	Individual	PP-OR-WOPR-09-0263	Denied-Issues Comments
Rhis, Jeanne	Individual	PP-OR-WOPR-09-0001	Dismissed-Only Comments
Rice, Jason	Individual	PP-OR-WOPR-09-0109	Denied-Issues Comments
Rice, Virginia	Individual	PP-OR-WOPR-09-0107	Denied-Issues Comments
Richardson, Len	Individual	PP-OR-WOPR-09-0127	Denied-Issues Comments
Richmond, David	Individual	PP-OR-WOPR-09-0077	Denied-Issues Comments
Robertson, Hope	Individual	PP-OR-WOPR-09-0144	Denied-Issues Comments
Robey, Steve	Individual	PP-OR-WOPR-09-0065	Denied-Issues Comments
Rose, Carter	Individual	PP-OR-WOPR-09-0187	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Rubintein, Leslie	Individual	PP-OR-WOPR-09-0208	Denied-Issues Comments
Rupert, Greg	Individual	PP-OR-WOPR-09-0105	Denied-Issues Comments
Sands, Shari	Individual	PP-OR-WOPR-09-0093	Denied-Issues Comments
Saunders, Clarence	Individual	PP-OR-WOPR-09-0148	Denied-Issues Comments
Schauer, Karen	Individual	PP-OR-WOPR-09-0101	Denied-Issues Comments
Scheusner, Roger and Sally	Individual	PP-OR-WOPR-09-0004	Denied-Issues Comments
Schlenoff, Debbie	Lane County Audubon Society	PP-OR-WOPR-09-0159	Denied-Issues Comments
Schnabel, Phil	Individual	PP-OR-WOPR-09-0120	Denied-Issues Comments
Schneider, Cathie	Individual	PP-OR-WOPR-09-0076	Denied-Issues Comments
Schwarz, Kurt R.	Howard County Bird Club	PP-OR-WOPR-09-0202	Denied-Issues Comments
Scott, Helen	Individual	PP-OR-WOPR-09-0118	Denied-Issues Comments
Scott, Trenor W.P.	Individual	PP-OR-WOPR-09-0217	Denied-Issues Comments
Sebring, Linda	Individual	PP-OR-WOPR-09-0184	Denied-Issues Comments
Shepard, Linda M.	Individual	PP-OR-WOPR-09-0258	Denied-Issues Comments
Shiple, Jack	Applegate Partnership	PP-OR-WOPR-09-0247	Denied-Issues Comments
Shockey Family	Individual	PP-OR-WOPR-09-0252	Denied-Issues Comments
Silverman, Susan	Individual	PP-OR-WOPR-09-0023	Denied-Issues Comments
Singer, Ellen	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Skach, Arthur	Individual	PP-OR-WOPR-09-0108	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Skar, Rolf	Greenpeace	PP-OR-WOPR-09-0204	Denied-Issues Comments
Slawson, Wayne	Individual	PP-OR-WOPR-09-0255	Denied-Issues Comments
Smith, Craig	Individual	PP-OR-WOPR-09-0084	Denied-Issues Comments
Solinsky, Thomas	Individual	PP-OR-WOPR-09-0090	Denied-Issues Comments
Sommer, Richard	Individual	PP-OR-WOPR-09-0209	Dismissed-Only Comments
Spain, Glen	Pacific Coast Federation of Fisherman's Associations and Insitute for Fisheries Resources	PP-OR-WOPR-09-0204	Denied-Issues Comments
Spitz, Jon	Individual	PP-OR-WOPR-09-0132	Denied-Issues Comments
Spivak, Randi	American Lands Association	PP-OR-WOPR-09-0204	Denied-Issues Comments
Springer, Karen	Individual	PP-OR-WOPR-09-0125	Denied-Issues Comments
Stahl, Andy	Individual	PP-OR-WOPR-09-0162	Denied-Issues Comments
Stahl, Andy	Forest Service Employees for Environmental Ethics	PP-OR-WOPR-09-0192	Denied-Issues Comments
Stanek, Elizabeth	Individual	PP-OR-WOPR-09-0092	Denied-Issues Comments
Stepanski, Dusty	Individual	PP-OR-WOPR-09-0027	Dismissed-Only Comments
Stevens, W. Rex	Individual	PP-OR-WOPR-09-0152	Dismissed-Only Comments
Sullivan, Thomas	Individual	PP-OR-WOPR-09-0038	Denied-Issues Comments
Swedo, Jane	Individual	PP-OR-WOPR-09-0045	Denied-Issues Comments
Swift, Jack H.	Southern Oregon Resource Alliance	PP-OR-WOPR-09-0193	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Switzer-Tatum, Paulette	Individual	PP-OR-WOPR-09-0061	Denied-Issues Comments
Taylor, Suzanne	Individual	PP-OR-WOPR-09-0015	Denied-Issues Comments
Thoen, Cheryl	Individual	PP-OR-WOPR-09-0012	Denied-Issues Comments
Thomas, Chant	Birch Creek Arts and Ecology Center	PP-OR-WOPR-09-0160	Denied-Issues Comments
Thoren, Tim	Individual	PP-OR-WOPR-09-0111	Denied-Issues Comments
Toobert, Michael	Individual	PP-OR-WOPR-09-0078	Denied-Issues Comments
TorgResen-Platter, Cindy	Individual	PP-OR-WOPR-09-0098	Denied-Issues Comments
Torrence, Paul F.	Individual	PP-OR-WOPR-09-0188	Denied-Issues Comments
Trappe, Matt	Individual	PP-OR-WOPR-09-0194	Denied-Issues Comments
Tritel, Lori	Individual	PP-OR-WOPR-09-0031	Dismissed-Only Comments
Tvedt, David	Individual	PP-OR-WOPR-09-0239	Denied-Issues Comments
Ulloth, John Jay	Individual	PP-OR-WOPR-09-0222	Denied-Issues Comments
Vaile, Joseph	Klamath-Siskiyou Wildlands Center	PP-OR-WOPR-09-0204	Denied-Issues Comments
Vaile, Joseph	Klamath-Siskiyou Wildlands Center	PP-OR-WOPR-09-0264	Denied-Issues Comments
Valasquez, Barbara A.	Individual	PP-OR-WOPR-09-0254	Dismissed-Only Comments
Vileisis, Ann	Kalmiopsis Audubon Society	PP-OR-WOPR-09-0104	Denied-Issues Comments
Wagner, David	Eugene Natural History Society, Inc.	PP-OR-WOPR-09-0161	Dismissed-Only Comments
Wallen, Phil	Western Rivers Conservancy	PP-OR-WOPR-09-0003	Granted in Part
Wallin, Bettine	Individual	PP-OR-WOPR-09-0145	Denied-Issues Comments

<b>Protester</b>	<b>Organization</b>	<b>Submission Number</b>	<b>Determination</b>
Wear, Hannah	Individual	PP-OR-WOPR-09-0221	Denied-Issues Comments
Werntz, Dave	Conservation Northwest	PP-OR-WOPR-09-0204	Denied-Issues Comments
Westerhoff, Maria	Individual	PP-OR-WOPR-09-0016	Denied-Issues Comments
Wheeler,, Mark	Individual	PP-OR-WOPR-09-0116	Denied-Issues Comments
Wiemann, Gloria	Individual	PP-OR-WOPR-09-0166	Denied-Issues Comments
Wilde, Jennifer	Individual	PP-OR-WOPR-09-0079	Denied-Issues Comments
Willer, Chuck	Coast Range Association	PP-OR-WOPR-09-0204	Denied-Issues Comments
Wilson, David S.	Individual	PP-OR-WOPR-09-0199	Denied-Issues Comments
Wilson, Jan	Individual	PP-OR-WOPR-09-0191	Denied-Issues Comments
Wilson, Michael	Individual	PP-OR-WOPR-09-0035	Denied-Issues Comments
Winholtz, Betty	Individual	PP-OR-WOPR-09-0135	Denied-Issues Comments
Wisdom, Gerald	Individual	PP-OR-WOPR-09-0196	Dismissed-Only Comments
Withrow, Amanda	Individual	PP-OR-WOPR-09-0024	Denied-Issues Comments
Wolfe, Nanlouise	Individual	PP-OR-WOPR-09-0064	Denied-Issues Comments
Wolling, Sue	Individual	PP-OR-WOPR-09-0177	Dismissed-Only Comments
Wood, Elaine S.	Individual	PP-OR-WOPR-09-0190	Denied-Issues Comments
Yeargain-Williams, Peggy	Individual	PP-OR-WOPR-09-0062	Denied-Issues Comments
Zehava, Angela	Individual	PP-OR-WOPR-09-0238	Denied-Issues Comments



## Issue Topics and Responses

### National Environmental Policy Act

#### Affected Environment

**Issue Number:** PP-OR-WOPR-09-0207-27

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fish analysis fails to present an adequate affected environment section. Rather than providing a concise affected environment section in chapter 3 for fish, the FEIS provides a long argument for the methods used in the analysis and the conclusions that are reached in chapter 4.

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**Issue Number:** PP-OR-WOPR-09-0207-28

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The affected environment section for water does not include a listing of Clean Water Act listed streams. This information is a key component of the affected environment failure to include it is a violation of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0207-4

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS violates NEPA because chapter 3, the Affected Environment, is lacking basic information needed to make a meaningful comparison of the alternatives. For many resources there is no information regarding the current conditions. Much of chapter 3 is an argument for the selected analysis methods, conclusions, and selected alternative.

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#### *Summary*

The affected environment within the PRMP/FEIS lacks needed information.

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#### *Response*

The CEQ regulations require an environmental impact statement to "succinctly describe the environment of the area(s) to be affected or created by the alternatives under consideration. The description shall be no longer than is necessary to understand the effects of the alternatives. Data and analyses in a statement shall be commensurate with the importance of the impact, with less important material summarized, consolidated, or simply referenced. Agencies shall avoid useless bulk in statements and shall concentrate effort and attention on important issues" (40 CFR 1502.15).

The BLM complied with these regulations in writing its affected environment section. The requisite level of information necessary to make a reasoned choice among the alternatives in an EIS is based on the scope and nature of the proposed decision. The baseline data provided in Chapter 3 and various appendices in the Western Oregon Plan Revision PRMP/FEIS is sufficient to support, at the general land use planning-level of analysis, the environmental impact analysis resulting from management actions presented in the PRMP/FEIS. For example, listing every water quality-impaired stream within the planning area by name would not provide useful information at this broad-scale analysis, particularly where the proposed plan alternatives did not vary the level of riparian protections to provide reduced levels for non-impaired streams. The

riparian protections within each alternative were applied to all streams, whether or not they were water quality-impaired. However, understanding the miles of impaired BLM streams, as presented in the PRMP/FEIS at 3-336 to 3-337, is useful in establishing a baseline by which the BLM may analyze the relative effects of each alternative's broad-based approach.

As specific actions come under consideration, the BLM will conduct subsequent NEPA analyses that include site-specific project and implementation-level actions, which may include but are not limited to timber harvest, fuels treatment, restoration, or other ground-disturbing activities (PRMP/FEIS at 4-479 and 5-895). The site-specific analyses will tier to the plan-level analysis and expand the environmental analysis when more specific information is known. In addition, as required by NEPA, the public will be offered the opportunity to participate in the NEPA process for implementation actions.

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### *Best Available Information*

**Issue Number:** PP-OR-WOPR-09-0008-24  
**Organization:** Individual  
**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

Just as for the northern spotted owl and the marbled murrelet discussed above, the PRMP risk jeopardy to ESA-listed salmon and steelhead and fails to rely on the best available science to reach conclusions about harm to aquatic ecosystems.

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**Issue Number:** PP-OR-WOPR-09-0170-1  
**Organization:** Individual  
**Protester:** John Donoghue

**Submission Number:** PP-OR-WOPR-09-0195  
**Organization:** Individual  
**Protester:** Kimberly Kittredge

**Submission Number:** PP-OR-WOPR-09-0194  
**Organization:** Individual  
**Protester:** Matt Trappe

**Issue Excerpt Text:**

The PRMP violates the NEPA by failing to incorporate the best available science on natural resources management.

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**Issue Number:** PP-OR-WOPR-09-0192-3  
**Organization:** Forest Service Employees for Environmental Ethics  
**Protester:** Andy Stahl

**Issue Excerpt Text:**

The FEIS is similarly silent regarding the scientific

consensus that the spotted owl faces a substantial extinction risk. In 1993, even "the BLM admit[ted] that experts believe that any further loss of habitat could severely compromise the ability of the owl to survive as a species." *Portland Audubon Soc'y v. Babbitt*, 998 F.2d 705, 708 (9th Cir. Or. 1993) (emphasis added). WOPR provides no evidence that the spotted owl is in any more secure a status today than it was in 1993; in fact, BLM cites additional risks to the owl's survival beyond those acknowledged then, e.g., barred owl competition and West Nile Virus. Yet nowhere in the FEIS is there any mention of this serious risk to the owl's survival. In words that could have been written about the WOPR FEIS, "[i]t would not further NEPA's aims for environmental protection to allow the Forest Service to ignore reputable scientific criticisms that have surfaced with regard to the once 'model' ISC Strategy." *Seattle Audubon Soc'y v. Espy*, 998 F.2d 699, 704 (9th Cir. Wash. 1993). So, too, it does not further NEPA's aim for environmental protection to allow the BLM to ignore reputable scientific criticisms that have surfaced with the regard to the risks associated with any further loss of owl habitat.

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**Issue Number:** PP-OR-WOPR-09-0202-18

**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club

**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**

The NWFP provides important protections for the Spotted Owl beyond the reserves including Standards and Guidelines that restrict the amount of logging in the matrix and riparian reserves, the 15% retention requirement, and no cut buffers around owl clusters.

By moving away from the NWFP, BLM is violating the ESA's best science mandate and risking jeopardy to the threatened Northern Spotted Owl.

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**Issue Number:** PP-OR-WOPR-09-0204-11

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The action alternatives in the FEIS violate the Endangered Species Act.

By delinking from the Northwest Forest Plan, BLM is violating the ESA's best science mandate and is risking jeopardy to the threatened northern spotted owl.

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**Issue Number:** PP-OR-WOPR-09-0204-13

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR final EIS violates NEPA because it fails to discuss opposing scientific opinions regarding Northern Spotted Owls, a species listed as threatened under the Endangered Species Act. Specifically, the FEIS fails to consider multiple respected scientific studies finding that any further loss of owl habitat will endanger the owl.

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**Issue Number:** PP-OR-WOPR-09-0204-14

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR FEIS fails to discuss or consider any of the respected scientific studies finding that further loss of owl habitat may drive the owl to extinction. Lamberson, R., R. McKelvey, B. Noon, and C. Voss, A Dynamic Analysis of Northern Spotted Owl Viability in a Fragmented Forest Landscape, Conservation Biology 6: 505-512 (1992) explained that:

[I]n a fixed landscape, the model predicts a sharp threshold below which Spotted Owl viability plunges. The underlying cause is dispersal failure (the recolonization rate of pair-sites is less than their extinction rate), due to a scarcity of suitable habitat or a scarcity of available mates in suitable habitat (the so-called Allee effect). The location and steepness of this threshold depends on the parameters of the model: on the initial number of owl pairs, on the density of suitable habitat, on assumptions concerning the owl's biology particularly its life history characteristics and its dispersal search strategy and efficiency-and finally on assumptions

made regarding the quality and stability of the owl's environment. Other than refining our knowledge of these factors, there is currently no way to pinpoint the locus of the threshold, and no direct empirical means to ascertain whether the population is currently at high risk of crossing a threshold point.

See also Lande, R., Extinction thresholds in demographic models of territorial populations. American Naturalist 130: 624-635 (1987); Lande, R., Demographic models of the Northern Spotted Owl (*Strix occidentalis caurina*). Oecologia 75: 601-607 (1988)

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**Issue Number:** PP-OR-WOPR-09-0204-15

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

In contrast, and like the plans that preceded the Northwest Forest Plan, the WOPR FEIS does not take a hard look at the opposing scientific opinions; it simply ignores them. The FEIS's failure to do so renders it inadequate under NEPA

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**Issue Number:** PP-OR-WOPR-09-0204-17

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS fails to address or even mention any of the existing scientific evidence relevant to evaluating the effects of the WOPR on the Northern Spotted Owl. The fact that the BLM believes that there is some uncertainty as to whether or not certain effects will occur does not excuse the BLM from all further analysis of such effects; rather, the BLM is required to consider the relevant science and address in a meaningful way the uncertainties surrounding the WOPR's effects on the owl. The BLM's failure to consider the relevant science on how the WOPR will effect the owl and failure to assess the effects of the WOPR on the owl render the FEIS inadequate under NEPA and its implementing regulations.

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**Issue Number:** PP-OR-WOPR-09-0204-2

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

3. The PRMP does not comply with the ACS, violating the ESA's best science mandate.

The PRMP offers smaller riparian reserves and less aquatic protection than the ACS. Simply put, this less protective scheme does not comply with the best

available science and risks jeopardy to listed salmon and steelhead.

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**Issue Number:** PP-OR-WOPR-09-0204-20

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR final EIS violates NEPA because it fails to discuss opposing scientific opinions regarding marbled murrelets, a species listed as threatened under the Endangered Species Act. Specifically, the FEIS fails to consider the findings of the 1997 Marbled Murrelet Recovery Plan regarding the importance of protecting all remaining murrelet habitat.

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**Issue Number:** PP-OR-WOPR-09-0204-33

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS contains several unsupported assumptions that OHV-related recreation will continue to increase in the planning area. For example, data listed in Table 3-71 are used to support an estimate that motorized OHV travel on BLM lands in the planning area will increase at an annual rate of change of 2.3 percent during the period 2006 to 2016. FEIS, Chapter 3 Recreation at 419. However, this estimate contradicts recent data released by the U.S. Forest Service for national forests in Western Oregon that demonstrate that the percent of visitors who participate in OHV use has decreased in the period 2002 to 2007.

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**Issue Number:** PP-OR-WOPR-09-0204-7

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS fails to disclose the science used, fails to consider reasonable opposing views, and fails to consider important recent science.

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**Issue Number:** PP-OR-WOPR-09-0204-8

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR fails to consider reasonable opposing views that support management of riparian and aquatic habitats in the Pacific Northwest under the prescriptions of the ACS.

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**Issue Number:** PP-OR-WOPR-09-0206-1

**Organization:** Individual

**Protester:** Carole Gale

**Issue Excerpt Text:**

The WOPR does not integrate the best available science regarding the importance of older forests, at-risk species, the contribution of streamside forests to clean water and the impacts WOPR would have on regulating climate

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**Issue Number:** PP-OR-WOPR-09-0207-1

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

We are also concerned that much of the effects analysis relies on assertions by the BLM rather than a careful consideration of relevant science and appropriate data. In the FEIS the BLM makes assertions regarding the effectiveness of Best Management Practices to prevent degradation of aquatic habitats and water quality and the effectiveness of the TPCC withdrawn designation to prevent increased landslide hazard.

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**Issue Number:** PP-OR-WOPR-09-0207-18

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS provides no meaningful analysis of rare, uncommon, and sensitive species that includes the range, biology, and other important factors. The FEIS also fails to respond to our substantive comments regarding these species.

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**Issue Number:** PP-OR-WOPR-09-0207-19

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

Assertions by agency personnel are insufficient to meet the requirements of NEPA however much of the sections and analysis relating to rare, uncommon, and sensitive species appears to be little more than assertion. For example the failure to discuss [sic] the distribution and biology of these species makes the leap between a highly simplistic "model" and the conclusions contained in the FEIS questionable.

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**Issue Number:** PP-OR-WOPR-09-0207-24

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fails to comply with NEPA because it fails to consider this important scientific publication [Carroll C and Johnson DS, 2008] which presents an opposing viewpoint to the BLM.

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**Issue Number:** PP-OR-WOPR-09-0207-25

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

NEPA requires that the FEIS disclose all analyses conducted not only those that support the BLM's conclusions.

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**Issue Number:** PP-OR-WOPR-09-0223-18

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The BLM's findings about the environmental impacts of its proposals do not comport with NEPA and ESA criteria that call for reliance on the best available and/or high quality, accurate science. In many cases BLM has chosen to rely on weak scientific interpretations that conflict with existing published information. In other cases BLM chooses to simply ignore entire categories of impact, or to ignore the science that informs that category. BLM has failed to respond substantively, or has responded very selectively, to many issues and to expert judgments and questions in agency and public comments-including our own. Through scientific errors and systematic biases and oversights, BLM in the FEIS presents to the public a narrow, slanted, and veiled view of the environmental consequences of its proposed actions. Hence the FEIS failed to meet its legal purpose under NEPA to inform citizens and allow public engagement in a critical agency planning decision.

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**Issue Number:** PP-OR-WOPR-09-0223-21

**Organization:** Pacific Rivers Council

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***Summary***

The BLM has failed to take the "hard look" required by the NEPA because it did not use adequate information for its analysis and/or necessary inventories and studies were not conducted.

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***Response***

The requisite level of information necessary to make a reasoned choice among the alternatives in

**Protester:** John Kober

**Issue Excerpt Text:**

Just as it did in the DEIS and in violation of the requirement for objectively providing "full and fair discussion of significant environmental impacts" (40 C.F.R. § 1502.1), BLM instead engages in a consistent pattern of "method/model-shopping"; i.e., where more than one analytical method or model is available, BLM consistently selects the option most conducive to the predetermined outcome of "justifying" reduced environmental protections to permit increased timber harvest levels -even when other available analytical methods are clearly more appropriate to the analytical need.

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**Issue Number:** PP-OR-WOPR-09-0260-3

**Organization:** Individual

**Protester:** Bruce Campbell

**Issue Excerpt Text:**

The PRMP under the WOPR certainly fails to integrate the best available science in regards to the importance of older forest ecosystems to the survival of endangered, threatened, and other species at-risk, and does not account for the vital contribution of older forests in streamside areas and elsewhere in watersheds to the quality of water in the watercourses which in turn support various at-risk species.

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**Issue Number:** PP-OR-WOPR-09-0260-4

**Organization:** Individual

**Protester:** Bruce Campbell

**Issue Excerpt Text:**

Seeing that the WOPR chose to ignore credible scientific evidence regarding climate change both in general and in regards to impacts of forest management activities, thus the PRMP and other action alternatives violate the National Environmental Policy Act.

an EIS is based on the scope and nature of the proposed decision. The baseline data provided in Chapter 3 and various appendices in the Western Oregon Plan Revision PRMP/FEIS is sufficient to support, at the general land use planning-level of analysis, the environmental impact analysis resulting from the management actions presented in the PRMP/FEIS.

A land use planning-level decision is broad in scope and, therefore, does not require an exhaustive gathering and monitoring of baseline data. Although the BLM realizes that more data could always be gathered, the baseline data provides the necessary basis to make informed land use plan-level decisions. Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions (BLM Land Use Planning Handbook H-1601-1, Chapter II, A-B at 11-13 and Chapter IV, B at 29; PRMP/FEIS at 1-19 to 1-20 and 5-895). The BLM will conduct subsequent project-specific NEPA analyses for projects proposed for implementation under the land use plan, which may include but are not limited to timber harvest, fuels treatment, and restoration (PRMP/FEIS at 4-479 and 5-895). The subsequent NEPA analyses for project-specific actions will tier to the land use planning analysis and evaluate project impacts at the appropriate site-specific level (40 CFR 1502.20, 40 CFR 1508.28). As required by NEPA, the public will have the opportunity to participate in the NEPA process for site-specific actions.

Before beginning the Western Oregon Plan Revision process and throughout the planning effort, the BLM considered the availability of data from all sources, adequacy of existing data, data gaps, and the type of data necessary to support informed management decisions at the land use plan-level. The data needed to support broad-scale analysis of the 22 million-acre planning area are substantially different than the data needed to support site-specific analysis of projects. The PRMP/FEIS data and information is presented in map and table form and is sufficient to support the broad scale analyses required for land use planning.

The BLM used the most recent and best information available that was relevant to a land use planning-level of analysis. During preparation of the PRMP/FEIS, the BLM consulted with and used data from other agencies and sources, including but not limited to the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State of Oregon. The BLM consulted on the analysis and incorporated available data into the PRMP/FEIS with its cooperating agencies and other agencies with jurisdiction or expertise. Considerations included but were not limited to threatened and endangered species and their habitats, water quality-limited (303d) streams, deer and elk herd management areas, invasive plants, and uses on State lands. In addition, the BLM specifically provided the public an opportunity to comment on its methodologies in the 2006 *Proposed Planning Criteria and State Director Guidance* and again in the DRMP/DEIS (PRMP/FEIS at 4-481). The BLM considered and used public input to refine its analytical approaches to planning. The Interdisciplinary Team used a systematic process to evaluate public input and comment during the planning process; this approach is described in PRMP/FEIS Appendix T at 763.

As a result of these actions, the Western Oregon Plan Revision team gathered the necessary data essential to make a reasoned choice among the alternatives analyzed in detail in the PRMP/FEIS. The BLM utilized the available data to provide an adequate analysis that led to an adequate disclosure of the potential environmental consequences of the alternatives (PRMP/FEIS at 4-473 to 4-862). As a result, the BLM has taken a “hard look,” as required by the NEPA, at the

environmental consequence of the alternatives in the Western Oregon Plan Revision PRMP/FEIS to enable the decisionmaker to make an informed decision.

Additionally, the BLM recognizes that in order to satisfy the "best available science" requirement of the Endangered Species Act the Agency cannot ignore relevant or superior data that are available, however, the BLM has no obligation to generate data, even if only weak data are available. As described above, the BLM has made a reasonable effort to collect and analyze all available data, including that which pertains to endangered species in the planning area. Therefore, the BLM has adequately complied with the "best available science" requirement of the Endangered Species Act.

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## **OPTIONS Model**

**Issue Number:** PP-OR-WOPR-09-0216-6

**Organization:** Individual

**Protester:** Nellie Patterson

**Issue Excerpt Text:**

Models such as OPTIONS and ORGANON are considered to be reliable predictors of changes in vegetative conditions over time. However, there has been limited experience with the use of these models for the purpose of projecting environmental

consequences of forest management alternatives. The FEIS does not describe how the models yield environmental outcomes resulting from timber harvest in accordance with various management options, at least not in a form that is easily grasped by nontechnical readers. Moreover, it appears that the model outputs are highly dependent on assumptions belonging to the models themselves, as well as on the experience, judgment and expertise of the modeler.

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### ***Summary***

The FEIS does not explain how the OPTIONS and ORGANON model yield outcomes.

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### ***Response***

The ORGANON model, developed by Oregon State University, is an individual tree growth model that was utilized for the development and modeling of growth and yield projections. The ORGANON refers to the generic model available in the public domain. The DBORGANON refers to the version of the model specifically modified for the BLM's Western Oregon Plan Revisions (PRMP/FEIS Appendix R at 674 to 675). The OPTIONS model is a spatially explicit, rules-based, land management simulator. The OPTIONS provides a modeling framework to bring the ORGANON growth projections together with BLM data and assumptions to simulate alternative scenarios.

The OPTIONS model has been in use and under continued development for approximately 20 years. It is a proprietary model developed by D.R. Systems Inc. (PRMP/FEIS Appendix R at 642); as such, there is no publicly available resource to explain the model's workings. However, the incremental steps in applying OPTIONS modeling are explained in detail in Appendix R (PRMP/FEIS Appendix R at 683 to 731). The OPTIONS model has been utilized for a wide range of resource-related analyses which include the assessment of environmental consequences. In 1999 using the OPTIONS model, D.R. Systems Inc assisted Plum Creek Timber Company with developing the first major, multi-species Habitat Conservation Plan (HCP) with the U.S.

Fish and Wildlife Service.

Modeling forest development over time under various land use allocations, management actions, and forest development assumptions to project forest conditions into the future and to determine the sustainable level of harvest given different scenarios, the output products from the OPTIONS modeling form the basis for comparing and evaluating these different land management strategies. The OPTIONS model also drew upon its data relationships with ORGANON to derive forest attributes related to its projections for use with additional analysis or subsequent modeling of environmental components (e.g. structural stage classification, northern spotted owl habitat classification and projection, carbon stores and sequestration, and large wood delivery projections for fisheries and landslide assessment, peak flow analysis, and sediment delivery modeling).

The PRMP/FEIS includes a written discussion of the modeling process, methodology, and procedures. Figures R-24 to R-26 (PRMP/FEIS Appendix R at 721 to 729) display the data flows for owl habitats, carbon projections, and large wood projections. A detailed discussion of the major components of the OPTIONS and DBORGANON models, how they were applied to the FEIS, and how they yield outcomes is included in Appendix R (PRMP/FEIS Appendix R at 683 to 731).

For additional information on the data and studies used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Best Available Information.”

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## Watershed Analyses

**Issue Number:** PP-OR-WOPR-09-0223-12

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The BLM fails to explain why it has not considered watershed analyses and used them to support its proposed alternatives. The BLM must consider this wealth of information, including scientific information. The watershed analyses are particularly

relevant considering that the agency itself produced or contributed to many of these documents. References to updated buffer science over the last two years (the BLM cites only two studies in its comment response, FEIS at Vol. IV, 839) do not provide a supportable rationale for ignoring these analyses. Scientific knowledge may improve with time, but that does not suddenly make all prior analyses obsolete and irrelevant for NEPA purposes.

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## Summary

The BLM does not explain if or how it used watershed analyses in the PRMP/FEIS.

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## Response

The BLM used the best and most recent information available that was relevant to the land use planning scale of analysis. During preparation of the PRMP/FEIS, the BLM consulted with the public and used data from other agencies and sources such as the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State of Oregon (PRMP/FEIS at 1-15 to 1-20). The PRMP/FEIS lists the research and information used in the analyses (PRMP/FEIS References



at 923 to 986).

The FEIS used watershed analysis techniques to describe the affected environment as well as to address environmental consequences (e.g., PRMP/FEIS at 3-356; Appendix I at 229, 231, 236 and 239). The FEIS conducted analyses at the watershed scale, describing historic conditions and trends (PRMP/FEIS at 3-331 to 3-361), and anticipated effects from the proposed actions (PRMP/FEIS at 4-753 to 4-778). As appropriate, data from existing watershed analyses were utilized.

The BLM will also conduct subsequent NEPA analyses consistent with the intent of watershed analyses for proposed implementation projects on lands managed by the land use plan (PRMP/FEIS at 5-895 to 5-896). These subsequent NEPA analyses will tier to the land use planning analysis and evaluate project impacts at the appropriate site-specific level (40 CFR 1502.20 and 1508.28).

In accordance with 40 CFR 1502.1, the PRMP/FEIS presented the decisionmaker with detailed information to make a reasoned choice among the alternatives in a manner such that the public could have an understanding of the environmental consequences associated with the alternatives.

For additional information on the data and studies used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Best Available Information.”

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### *Cumulative Impact Analysis*

**Issue Number:** PP-OR-WOPR-09-0202-10  
**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club  
**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**

Finally, we are concerned about how the WOPR, in conjunction with other proposals including the Final Spotted Owl Recovery Plan, the reduction of Critical Habitat for the Northern Spotted Owl, the proposed reduction of Critical Habitat for the Marbled Murrelet, and the proposed change to Sec. 7 consultation, amount to a substantial weakening of existing protections for two threatened species and their habitat. We do not believe the Final Spotted Owl Recovery Plan is sufficient to allow the species to survive, let alone recover.

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**Issue Number:** PP-OR-WOPR-09-0202-21  
**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club  
**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**

Similarly, we are opposed to the reductions of Critical Habitat. The available evidence indicates more Critical Habitat should be designated for the owl, not less, and that there is no scientific justification for removing murrelet Critical Habitat, particularly the 62,700 acres in Oregon's Lane and Douglas Counties. By failing to analyze the cumulative impact of these other proposals, the WOPR violated NEPA.

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**Issue Number:** PP-OR-WOPR-09-0204-53  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS fails to consider any individual past actions in its cumulative effects analysis, instead relying on a CEQ guidance statement which provides that "agencies can conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving into the historical details of individual past actions." FEIS at 4-485 (quoting CEQ Guidance issued on June 24, 2005). This is inadequate to satisfy NEPA's requirement of cumulative effects analysis

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**Issue Number:** PP-OR-WOPR-09-0204-9

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS fails to consider the cumulative effects of the WOPR on aquatic habitats and fish populations in several respects. First, the FEIS fails to discuss the current condition of aquatic habitats and fish populations. Given the lack of baseline information, it is impossible to assess the cumulative effects of past actions and the proposed alternatives.

Additionally, the FEIS minimizes the role of past actions in the condition of fish habitats; dismisses the effects of cumulative federal and non-federal actions as non-significant; and fails to disclose the effects of the elimination of the Northwest Forest Plan Standards and Guidelines and the Aquatic Conservation Strategy.

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**Issue Number:** PP-OR-WOPR-09-0207-15

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

No disclosure of the location, area affected, or consequences of these sales are considered in the PEIS. These sales [for 2009 and 2010] represent cumulative effects and must be included in the analysis.

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**Issue Number:** PP-OR-WOPR-09-0223-14

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The BLM fails to explain the impacts that its PRMP would have on surrounding Federal Lands. High risk BLM plans will require the Forest Service to make up these risks, require a dramatic increase in Forest Service Protections. These kinds of increased protections will be essential on Forest Service lands if the Forest Service intends to meet the goals and objectives of the NWFP. The BLM has therefore not adequately described the effects its PRMP would have on surrounding land management.

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**Issue Number:** PP-OR-WOPR-09-0223-20

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

In contrast to the requirement of a credible cumulative impacts analysis and disclosure, BLM consistently does the opposite, artificially isolating compartmentalized elements of environmental impact

(e.g., influence on stream temperature of shading by riparian vegetation), without ever integrating the results into a credible assessment of the aggregated impact of the proposed action "which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions" (40 CFR 1508.7). Instead, BLM presents some analysis projecting that the incremental additional adverse impact of the management changes proposed will be "small", undetectable, not measurable, or insignificant for that element at some usually arbitrary scale of analysis; then baselessly assumes from that finding that the adverse impact is therefore inconsequential or insignificant biologically/ecologically. For example, BLM adopts reasoning for the scale of analyzing scour and fill in relation to peak flows and sedimentation opposite to that adopted for stream temperature impacts. Essentially, BLM's entire premise for claiming compliance with ESA, CWA, etc. is the assumption that if additional adverse impacts to the existing, extensively degraded condition can be characterized as "small" and/or localized, then they can be treated as non-existent or insignificant - an assumption strongly contrary to best available scientific understanding.

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**Issue Number:** PP-OR-WOPR-09-0228-64

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The FEIS does not adequately describe the cumulative impacts during the first decades of implementation caused by a large scale regen harvest program in the TMAs, plus a large scale thinning program in the reserves. The affects ecosystems and wildlife have a limited capacity for disturbance and the combined effects of these two logging programs are significant yet undisclosed.

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**Issue Number:** PP-OR-WOPR-09-0233-14

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The Environmental Impact Statement for the WOPR fails to disclose the incremental environmental impact of individual past actions, and it fails to adequately catalogue past actions or disclose their time, type, place, and scale. Rather than disclosing this information as required, the FEIS simply states, that "environmental analysis required under NEPA is

forward-looking" and that "agencies can conduct an adequate cumulative effects analysis by focusing on the currently aggregate effects of past actions without delving into the details of individual past actions." FEIS 485. This argument, which is based on a June 24, 2005 memorandum from the Council on Environmental Quality (CEQ), has been made before by the BLM and Forest Service alike, and it has been rejected over and over again by the Ninth Circuit and other courts. The CEQ memo, and the BLM's reliance on it, is inconsistent with the plain language of the NEPA regulations, which require the BLM to consider the impacts of "past, present, and reasonably foreseeable future actions. 40 C.F.R. § 1508.7.

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**Issue Number:** PP-OR-WOPR-09-0233-15  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The WOPR FEIS fails to disclose or acknowledge the enormous environmental impacts that have been caused by decades of the BLM's own mismanagement. A significant percentage of the land base at issue here has been clearcut at least once. Many other areas have been degraded by excessive road construction. The impact of past activities has

not been adequately identified or aggregated to the expected impacts of the WOPR. Without this analysis, the WOPR FEIS lack a useful cumulative impacts analysis.

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**Issue Number:** PP-OR-WOPR-09-0233-17  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Here, the cumulative effects of the plan revisions fail to account for impacts to BLM lands and Forest Service lands. See Seattle Audubon, 871 F.Supp. at 1311 (explaining that "[g]iven the current condition of the forests, there is no way the agencies could comply with the environmental laws without planning on an ecosystem basis"). The BLM's action will not occur in a vacuum; rather, the WOPR will have negative effects for plant and animal species beyond the BLM districts at issue that were originally intended to be protected under the NFP. Because the collapse of the NFP is reasonably foreseeable, these effects should have been disclosed pursuant to NEPA. The cumulative effects to the NFP were not disclosed, and the WOPR, therefore, violates NEPA.

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***Summary***

The BLM's cumulative effects analysis is inadequate because it does not consider individual past and present actions or proposals on all public and private lands.

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***Response***

The BLM thoroughly explained its consideration and analysis of cumulative effects in the PRMP/FEIS at 4-485 to 4-487. This discussion summarizes CEQ guidance from June 24, 2005, stating that "[g]enerally, agencies can conduct an adequate cumulative effects analysis by focusing on the current aggregate effects of past actions without delving into the historical details of individual past actions." This is because a description of the current state of the environment inherently includes the effects of past actions. Information on the current conditions is more comprehensive and more accurate for establishing a useful starting point for cumulative effects analysis. The CEQ interpretation was accepted by the Ninth in *NW Env'tl. Advoc. v. Nat'l Marine Fisheries Serv.*, 460 F.3d 1125, 1141 (9th Cir. 2006). The BLM explicitly described its assumptions regarding BLM proposed projects and other reasonably foreseeable future actions. For U.S. Forest Service and state of Oregon lands, reasonably foreseeable actions are those that would occur under their current land use plans from a broad-scale perspective (PRMP/FEIS at 4-486).

The BLM considered the 2008 Final Spotted Owl Recovery Plan and new critical habitat designations. As a result, all new northern spotted owl Critical Habitat Units on BLM-

administered lands would be in the non-harvest land base under the PRMP (PRMP/FEIS Appendix H at 212).

The BLM also addresses the proposed changes to marbled murrelet critical habitat. As this rule change is not final (PRMP/FEIS at 3-306), the PRMP/FEIS does project suitable habitat based on the 1996 critical habitat designations (PRMP/FEIS Appendix H at 214 to 217) and not on the proposed rule change. Furthermore, the PRMP/FEIS addresses the total amount of marbled murrelet nesting habitat across all BLM-administered lands within both Zone 1 and Zone 2 (PRMP/FEIS at 4-685 to 4-694 and 3-299 to 3-300) regardless of whether they are designated as critical habitat.

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### **Liquified Natural Gas Development**

**Issue Number:** PP-OR-WOPR-09-0233-63  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

proposed Jordon Cover LNG Pipeline, which goes right through the Coos Bay and Roseburg BLM Districts. The cumulative impacts analysis in the WOPR FEIS is not sufficient without a discussion of the impacts of these and other contemporaneous landscape-level activities in western Oregon.

**Issue Excerpt Text:**

Nor does the WOPR DEIS discuss the impacts of the

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### ***Summary***

The impacts of proposed Liquified Natural Gas (LNG) development is not included in the cumulative impact analysis in the PRMP/FEIS.

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### ***Response***

The FEIS considers the proposed Jordon Cove LNG facility and Pacific Connector Gas Pipeline projects in the cumulative effects analysis (PRMP/FEIS Map 2-6 at 2-60; 3-451 and 4-487). The Federal Energy Regulatory Commission is completing an EIS that considers the broad scale and site-specific impacts of these two projects which will include further consideration of cumulative impacts in the context of that decision process. The BLM is a cooperating agency in the preparation of that EIS.

For information on project versus plan level environmental analyses, please refer to the response for "Impact Analysis-Plan Versus Site Specific." For additional information on the cumulative impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Cumulative Impact Analysis."

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### ***Effectiveness of Mitigation***

**Issue Number:** PP-OR-WOPR-09-0216-7  
**Organization:** Individual  
**Protester:** Nellie Patterson

**Issue Excerpt Text:**

The FEIS also states: "The analysis of the PRMP in the Final EIS indicates that levels of impacts to the various resources would be low. This is primarily a

result of the incorporation of mitigation into the design of land use allocations and management direction of the PRMP to avoid, rectify or reduce adverse environmental impacts." [FEIS, Chapter 4,

p.496] The FEIS analysis does not show how the mitigation measures in the PRMP reduce impacts to a low level.

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### ***Summary***

The FEIS analysis does not show how the mitigation measures in the PRMP reduce impacts to a low level.

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### ***Response***

The passage cited in the protest, taken from the FEIS, refers to changes that were made to the preferred alternative in the DEIS in the development of the PRMP. The FEIS analysis demonstrates how these changes in the design of land use allocations and management direction in the PRMP would result in a low level of impacts in the effects analysis contained in Chapter 4 of the FEIS. For example, Alternative 2 (the preferred alternative in the DEIS) would result in an increase in the acres of high fire severity in the Klamath Falls Resource Area (PRMP/FEIS at 4-809). In developing the PRMP, the Uneven-age Timber Management Area land use allocation was designed to reduce fire severity and promote fire resilience (PRMP/FEIS at 2-24 and 2-38). The effects analysis demonstrates that the incorporation of this land use allocation into the PRMP would result in a decrease in fire severity in the Klamath Falls Resource Area (PRMP/FEIS at 4-808 to 4-810).

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## ***Impact Analysis***

### ***Summary***

The BLM failed to provide an adequate analysis of the impacts related to particular resources/uses in the PRMP/FEIS. See the topics that follow regarding specific resources/uses raised by protesters.

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### ***Response***

The PRMP/FEIS provide an adequate discussion of the environmental consequences, including the cumulative impacts, of the PRMP and reasonable alternatives (PRMP/FEIS at 4-479 to 4-862). As required by 40 CFR 1502.16, the PRMP/FEIS provides a discussion of the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. The PRMP/FEIS presented the decisionmaker with sufficiently detailed information to aid in determining whether to proceed with the PRMP or make a reasoned choice among the other alternatives in a manner such that the public could have an understanding of the environmental consequences associated with the alternatives, in accordance with 40 CFR 1502.1.

Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions (BLM Land Use Planning Handbook H-1601-1, Chapter II, A-B at 11-13 and Chapter IV, B at 29; PRMP/FEIS at 1-19 to 1-20 and 5-895). The PRMP contains only planning actions and does not include any implementation actions. A more quantified or detailed and specific analysis would be required only if the scope of the decision included implementation actions. As specific actions that may affect the area come under consideration, the BLM will conduct subsequent NEPA analyses that include site-specific project and implementation-level actions, which may include but are not limited to timber harvest, fuels treatment, restoration, or other ground-disturbing activities (PRMP/FEIS at 4-479 and 5-895). The site-specific analyses will tier to the plan-level analysis and expand the environmental analysis when more specific information is known. In addition, as required by NEPA, the public will be offered the opportunity to participate in the NEPA process for implementation actions.

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## Impact Analysis - Coal Bed Methane Exploration

**Issue Number:** PP-OR-WOPR-09-0233-4  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

### **Issue Excerpt Text:**

The BLM has identified the area around Coos Bay as having moderate to high potential for coal bed methane. It predicts a "strong likelihood of commercial development in the Coos Bay District," and thus, projects to lease an additional 25,000 acres of BLM administered lands. Presenting no alternatives to CBM management, BLM proposes to close to leasing only the 1,600 acres that the law requires, without thoroughly considering the potential impacts of CBM exploration.

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**Issue Number:** PP-OR-WOPR-09-0260-12  
**Organization:** Individual  
**Protester:** Bruce Campbell

### **Issue Excerpt Text:**

While the FEIS briefly mentioned the coal-bed methane which is being pursued in the Coos Bay area on private and county lands (and which the document admits may spread to BLM lands), yet the impact of this on habitat for listed species and on climate change is not discussed. The Coos Bay district is the key one for the MAMU [marbled murrelet], yet no analysis was done on the possible impacts from coal-bed methane drilling and related facilities on the murrelet in this region.

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## ***Summary***

The PRMP/FEIS does not consider the potential impacts of coal bed methane exploration in the Coos Bay District.

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## ***Response***

The requisite level of analysis necessary to make a reasoned choice in an EIS is based on the scope and nature of the proposed action. As described in the PRMP/FEIS Appendix Q at 585, there is currently no coal bed methane production in Oregon, and there are no coal bed methane development proposals for BLM lands. The PRMP/FEIS does not propose any coal bed methane development, but it does disclose reasonably foreseeable mineral and energy developments including identification of one coal bed natural gas resource south of Coos Bay (PRMP/FEIS, Appendix Q at 569). The PRMP/FEIS anticipates this play will be developed. Currently, Methane Energy Corporation, a private company, is utilizing directional drilling to determine the

feasibility of coal bed methane development on private and county lands south of Coos Bay (PRMP/FEIS at 4-861; Appendix Q at 586). This development may extend to BLM-administered lands, although no lease nominations have been received to date.

As described, there are no specific proposals for coal bed methane development on BLM lands and the PRMP/FEIS only includes management decisions. As a result, no site-specific analysis is necessary at this time. The PRMP/FEIS states that all publicly owned oil and gas resources are open to leasing, unless designated as closed (PRMP/FEIS at 4-860; Appendix Q at 623). Only 1600 acres in the Coos Bay District are proposed as closed to leasing because, as per 43 CFR 3100.0-3, public domain lands and lands returned to the public domain under section 2370 are subject to leasing under the Mineral Leasing Act (1920). The Materials Act of 1947 clarified that O&C lands are also subject to the general mining law (30 U.S.C. Sec. 601).

If the BLM receives a proposal for exploration or development of coal bed methane, subsequent environmental analysis would be performed as required. Required NEPA analysis for any development proposal would occur after an application is received and prior to offering the lease for sale, and the public will be offered the opportunity to participate in the process as required by NEPA.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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## Impact Analysis - Economics

### Non-Market Impacts

**Issue Number:** PP-OR-WOPR-09-0204-25

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

BLM has failed to inventory all the carbon stored in forests and soils on western Oregon BLM lands and the value of BLM lands to store more carbon if managed appropriately to grow more mature & old-growth forest forests. For this reason, BLM has failed to inventory the resource and other values of the WOPR lands, in violation of FLPMA.

such as commercial salmon fishing, sportsfishing, and tourism. The FEIS also ignores the services and benefits that ecosystems provide to humans, including the benefits the public enjoys from the existence of old growth forest, wildlife, scenic landscapes, high quality and quantities of water, and recreational opportunities. Public forests in western Oregon also provide a key role in carbon sequestration and contribute to moderating climate change. The FEIS's failure to include any of these values in its economic analysis results in a biased economic evaluation, in violation of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0204-54

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS is flawed because it fails to include or consider a wide range of economic values in its analysis. The FEIS targets its economic analysis and bases its economic predictions and forecasts on the wood products industry, and fails to recognize the important economic contributions of other industries

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**Issue Number:** PP-OR-WOPR-09-0204-56

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

Unfortunately, despite acknowledging that some of these ecosystem values exist, the BLM also acknowledges that BLM did not include them in their economic analysis. This is a major deficiency and results in a biased evaluation and analysis that ignores the economic contributions that natural

ecosystems provide. This deficiency also insures that BLM does not have a credible understanding of the impacts of the management actions it's proposing will have on economic values associated with ecosystem services. Not only does this deficiency result in failing to disclose major impacts to the economy and environment, but it results in BLM not fully understanding the implications of its proposed actions.

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**Issue Number:** PP-OR-WOPR-09-0228-21  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM's NEPA analysis failed to recognize that prices are unreasonable and markets are not normal because current markets and prices do not reflect the true adverse environmental costs of logging mature and old growth forests in terms of loss of biodiversity, degraded water quality, loss of climate stability, etc.

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**Issue Number:** PP-OR-WOPR-09-0233-39  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

According to the BLM, The Ninth Circuit Court decision in *Headwaters* provides the leading rule on

how the O&C Act should be interpreted. According to the BLM, the Court held that Congress mandated timber production (logging) as the dominant use of these BLM-administered lands. This interpretation is erroneous and it leads to an inadequate evaluation in the range of management and policy options because, among other things, it: (a) is based on an inadequate economic analysis; (b) fails to consider the impacts that will be caused to the Ecosystem Services that the affected lands provide to Oregon's Economy; and (c) fails to explain and address the impact the WOPR will have on the economic stability of the communities in Western Oregon."

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**Issue Number:** PP-OR-WOPR-09-264-4  
**Organization:** Klamath-Siskiyou Wildlands Center  
**Protester:** Joseph Vaile

**Issue Excerpt Text:**

The BLM failed to disclose information that was relevant to the WOPR analysis. In comment 41, page 776 the BLM contends that, "assigning an economic or market place value to the ecological importance of old-growth would be speculative since it does not trade in a marketplace and the price cannot be observed (see page 783 of DEIS)." BLM is hedging by limiting it to the "ecological" importance of old-growth, but it fails to consider the combined importance of older forests for recreation, climate stability, or water production.

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## ***Summary***

The PRMP/FEIS is inadequate because it does not address the non-market economic impacts of the alternatives.

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## ***Response***

The PRMP/FEIS analysis does not include the economic effects of non-market values such as wildlife, water quality, carbon storage, or the aesthetic values of forests. The analysis does not attempt to attach monetary values to such non-market values because to do so would be speculative and arbitrary (PRMP/FEIS at 4-546). The NEPA regulations provide: "For purposes of complying with the Act (NEPA), the weighing of the merits and drawbacks of the various alternatives need not be displayed in a monetary cost-benefit analysis and should not be where there are important qualitative considerations" (40 CFR 1502.23). Therefore, the BLM analyzed these non-market amenities qualitatively as opposed to quantitatively (PRMP/FEIS at 4-473 to 4-862).

Ecosystems services analysis, while potentially useful in future land use planning, is an emerging field of study. There is currently no widely accepted methodology for performing ecosystem



services analyses. Further, there is wide disagreement among the academic community as to the appropriate definition of “ecosystem services.” Conducting such a cost-benefit assessment, which includes these services at this time, would involve arbitrary assumptions and a level of analysis far too speculative to meaningfully inform a reasoned choice among the alternatives.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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## Timber Market Analysis

**Issue Number:** PP-OR-WOPR-09-0142-1

**Organization:** Individual

**Protester:** Roger Brandt

**Issue Excerpt Text:**

the WOPR will "create" about 3,000 timber jobs but inflict the loss of more than 39,000 jobs in other sectors of the economy. This is a staggering trade-off but it is more bewildering that the BLM has no knowledge that this is the implications of the plan because they are trying to blindly implement it without a comprehensive economic analysis.

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**Issue Number:** PP-OR-WOPR-09-0204-57

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR FEIS is flawed because there are serious deficiencies in the BLM's economic analysis of the forest products industry. The BLM WOPR FEIS does not adequately consider changes in wood products and stumpage markets, technological change in lumber manufacturing, and does not provide a reasonable range of future economic scenarios. Additionally, the FEIS overstates BLM's ability to influence the economic stability of communities in western Oregon.

To accurately analyze the timber industry, BLM should have:

1. conducted an economic analysis using a range of stumpage price estimates to forecast O&C county payments, with the range determined by the historic range of variability of stumpage and lumber prices;
2. incorporated all the available evidence of the effect of reserving public land for conservation purposes and technological change into its analysis of Oregon employment;
3. provided adequate documentation to justify the stumpage price differences between

alternatives, especially the highest price assumed under Alternative 2;

4. addressed the possibility that it will have a difficult time finding markets for large logs at reasonable stumpage prices;

5. conducted its economic analysis under several scenarios reflecting the historical range of variability in the market for wood products; and

6. reported the sensitivity of its timber volume, stumpage price, revenue, O&C payments, and employment projections to this historic range of variability.

Failure to consider these and other factors renders the FEIS misleading and incomplete, in violation of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0228-21

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM's NEPA analysis failed to recognize that prices are unreasonable and markets are not normal because current markets and prices do not reflect the true adverse environmental costs of logging mature and old growth forests in terms of loss of biodiversity, degraded water quality, loss of climate stability, etc.

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**Issue Number:** PP-OR-WOPR-09-0228-25

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM was arbitrary and capricious in limiting the consideration of economic impacts to direct impacts. This is a very serious flaw in the NEPA analysis

given that economic factors are among the main motivations for the WOPR.

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**Issue Number:** PP-OR-WOPR-09-0233-39

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

According to the BLM, The Ninth Circuit Court decision in Headwaters provides the leading rule on how the O&C Act should be interpreted. According to the BLM, the Court held that Congress mandated timber production (logging) as the dominant use of these BLM-administered lands. This interpretation is erroneous and it leads to an inadequate evaluation in the range of management and policy options because, among other things, it: (a) is based on an inadequate

economic analysis; (b) fails to consider the impacts that will be caused to the Ecosystem Services that the affected lands provide to Oregon's Economy; and (c) fails to explain and address the impact the WOPR will have on the economic stability of the communities in Western Oregon."

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**Issue Number:** PP-OR-WOPR-09-0235-29

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The EIS fails to fully consider the economic impacts of requiring an inflexible ASQ [allowable sale quantity] in years with low timber markets, such as now. Also, the current economic situation was never considered in the EIS.

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***Summary***

The PRMP/FEIS does not adequately address the impacts of the alternatives on the timber market.

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***Response***

The PRMP/FEIS provides, as part of the economic analysis, the changes in employment in each county from the baseline of 2005 (PRMP/FEIS Table 3-7 at 3-227) to employment figures projected for each alternative (PRMP/FEIS Tables 4-11 to 4-15 at 4-550 to 4-559) projected over the next decade. Detailed net changes in jobs for each alternative by sector for each county is included in Appendix D (PRMP/FEIS Appendix D at 41 to 141). There is no evidence that the BLM's revision of these plans will have any substantial affect on jobs other than those associated with the levels of timber production in the alternatives (PRMP/FEIS Appendix D at 41 to 141).

The BLM understands that timber prices fluctuate over time and explains how the BLM accounted for these fluctuations by using a decadal-average stumpage price projection in the analysis (PRMP/FEIS at 4-547). The O&C Act requires the BLM to sell an amount of timber "not less than the annual sustained yield capacity...annually, or so much thereof as can be sold at reasonable prices on a normal market" (43 U.S.C.1181).

Demand for wood products creates demand for raw material (logs) and the factors (e.g., employees and capital investments) that convert raw material into finished products. Management of BLM land does not create demand for wood products but rather responds to demand through supplying raw material. The BLM timber sales will generate revenues that are shared with the counties; the sales also will create employment and income across many sectors of the economy. These are all indirect impacts of the alternatives. The FEIS describes the potential economic contribution of each alternative in Chapter 4 (PRMP/FEIS at 4-545 to 4-566).

An analysis using a variety of historical prices would add limited clarity and have little relevance to current market conditions. Further, although the overall forecasted receipt levels would vary if

prices were to change, the results for the alternatives would move nearly in unison. Comparisons between alternatives would change little in response to variations in price assumptions for pond values of logs.

Under all of the alternatives, BLM lands would be managed under Best Management Practices (PRMP/FEIS Appendix I at 268 to 318). The stumpage prices used under Alternative 2 is a result of the higher level of regeneration harvest and higher level of harvest of structurally complex forest. Within each combination of harvest type, district, and structural stage harvested, the stumpage price for that combination is constant across alternatives. It is the different quantities harvested, the different types of structural stages harvested, and the different harvest methods that cause the stumpage prices to vary both in total and on a per mbf basis. The FEIS provides a citation (Ehinger 2006a) which reports that 10 percent of western Oregon mill capacity is capable of handling large logs (about 450 mmbf) and that more large log capacity is being added (PRMP/FEIS at 3-242).

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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## Other Industry Market Analysis

**Issue Number:** PP-OR-WOPR-09-0204-54

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS is flawed because it fails to include or consider a wide range of economic values in its analysis. The FEIS targets its economic analysis and bases its economic predictions and forecasts on the wood products industry, and fails to recognize the important economic contributions of other industries such as commercial salmon fishing, sportsfishing, and tourism. The FEIS also ignores the services and benefits that ecosystems provide to humans, including the benefits the public enjoys from the existence of old growth forest, wildlife, scenic landscapes, high quality and quantities of water, and recreational opportunities. Public forests in western Oregon also provide a key role in carbon sequestration and contribute to moderating climate change. The FEIS's failure to include any of these values in its economic analysis results in a biased economic evaluation, in violation of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0233-39

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

According to the BLM, The Ninth Circuit Court decision in Headwaters provides the leading rule on how the O&C Act should be interpreted. According to the BLM, the Court held that Congress mandated timber production (logging) as the dominant use of these BLM-administered lands. This interpretation is erroneous and it leads to an inadequate evaluation in the range of management and policy options because, among other things, it: (a) is based on an inadequate economic analysis; (b) fails to consider the impacts that will be caused to the Ecosystem Services that the affected lands provide to Oregon's Economy; and (c) fails to explain and address the impact the WOPR will have on the economic stability of the communities in Western Oregon."

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**Issue Number:** PP-OR-WOPR-09-0235-31

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The DEIS failed to fully consider the negative economic impact of clearcutting these public forests.

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## **Summary**

The PRMP/FEIS is inadequate because it does not address impacts of the alternatives on other industries.

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## **Response**

The PRMP/FEIS provides, as part of the economic analysis, the changes in employment in each county from the baseline of 2005 (PRMP/FEIS Table 3-7 at 3-227) to employment figures projected for each alternative (PRMP/FEIS Tables 4-11 to 4-15 at 4-550 to 4-559) projected over the next decade. Detailed net changes in jobs for each alternative by sector for each county is included in Appendix D (PRMP/FEIS Appendix D 41 to 141).

The FEIS (PRMP/FEIS at 4-545 to 5-546) recognizes other economic contributions such as tourism, commercial fishing, hunting, and grazing in the planning area. However, the BLM's receipts from these activities in western Oregon are relatively minor compared to the timber program. The analysis in the FEIS does not include the economic effects of non-timber programs because the programs affected by any of the alternatives and the programs do not materially vary among the alternatives (PRMP/FEIS at 4-546). Therefore, a detailed analysis of contribution to the local economies of tourism, commercial fishing, hunting, and grazing would not change the analytical conclusions or the relative ranking of the alternatives.

It should be noted that the O&C Act and the purpose and need are to manage BLM-administered lands for permanent forest production in conformity with the principles of sustained yield (PRMP/FEIS at 1-4 to 1-6). The O&C Act states the purposes of permanent forest production in conformity with sustained yield include "a permanent timber supply" and "contributing to economic stability of local communities and industries."

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## **Impact Analysis - Elimination of the Northwest Forest Plan**

**Issue Number:** PP-OR-WOPR-09-0204-3

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR FEIS violates the National Environmental Policy Act ("NEPA"), 42 U.S.C. § 4332, and its implementing regulations, because it fails: (a) to disclose and assess the impacts, including the cumulative impacts, of the habitat-degrading activities that will be allowed under the PRMP's elimination of the Northwest Forest Plan's Aquatic

Conservation Strategy; (b) to disclose scientific disagreement with eliminating the protections and prescriptions of the ACS; and (c) to consider an adequate range of alternatives and most particularly an alternative in which BLM would implement the ACS as written and as interpreted by the courts.

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**Issue Number:** PP-OR-WOPR-09-0204-4

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR FEIS violates NEPA because it does not adequately describe the details of each action alternative with respect to the changes in the ACS.

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**Issue Number:** PP-OR-WOPR-09-0204-5

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The DEIS and FEIS simply fail to provide essential details for the public to understand what each action alternative actually entails. An EIS's "form, content and preparation [must] foster both informed decision-making and informed public participation." Salmon River Concerned Citizens v. Robertson, 32 F.3d 1346, 1356 (9th Cir. 1994). The DEIS and FEIS completely fail to meet this requirement because they do not clearly explain how this proposal will change the ACS of the Northwest Forest Plan.

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**Issue Number:** PP-OR-WOPR-09-0204-51

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS fails to address or analyze the environmental and cumulative impacts of these alternatives on the continuing validity of the Northwest Forest Plan as a whole, in violation of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0204-52

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

Because the unraveling of the Northwest Forest Plan and its protections is a foreseeable future action, the environmental and cumulative impacts of losing or changing the Northwest Forest Plan should have been analyzed by BLM. As they were not, the FEIS violates NEPA.

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**Issue Number:** PP-OR-WOPR-09-0204-6

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

Despite the clearly interdependent nature of all four components of the ACS, the BLM fails to discuss or analyze the environmental impacts of eliminating and/or reducing all the components of the ACS.

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**Issue Number:** PP-OR-WOPR-09-0207-17

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The BLM has failed to analyze the elimination of the Survey and Manage Standards and Guidelines in the WOPR FEIS and has apparently the agency's stance on the status of these Standards and Guidelines has changed between the DEIS and FEIS.

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**Issue Number:** PP-OR-WOPR-09-0207-3

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The failure to provide at least a summary of current management has led to the failure of the analysis to consider the full effects on eliminating the Northwest Forest Plan on BLM lands in Western Oregon.

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**Issue Number:** PP-OR-WOPR-09-0207-35

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The WOPR FEIS fails to consider the effects of the elimination of the Northwest Forest Plan including 100-acre owl cores. These islands of habitat provide for the continued existence of the species in matrix lands. Other provisions of the Northwest Forest Plan that are eliminated include green tree, snag, and down wood retention and matrix standards and guidelines

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**Issue Number:** PP-OR-WOPR-09-0223-10

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The FEIS does not adequately disclose the impacts upon aquatic ecosystems of management that would be allowed under the PRMP within riparian buffers managed with this heretofore unseen degree of discretion. This management is currently regulated under the NWFP through standards and guidelines and aquatic conservation objectives. The DEIS and FEIS do not sufficiently describe the aquatic impacts that will result if these sideboards are removed from riparian buffer management.

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**Issue Number:** PP-OR-WOPR-09-0223-11

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The fate of these areas (refugia) is recognized as vital for the future of ESA-listed fish and other sensitive

species, but BLM's FEIS is silent as to the effect of BLM's proposed decision to manage BLM's lands inside Key Watersheds as if Key Watersheds do not exist.

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**Issue Number:** PP-OR-WOPR-09-0223-13

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The BLM has not adequately disclosed the effects of eliminating the ACS, and replacing it with highly managed Riparian Management Areas on salmon population viability

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**Issue Number:** PP-OR-WOPR-09-0223-24

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

While the FEIS does indicate that this projected increase in its road network exceeds that BLM would make under current management direction, there is virtually no disclosure that BLM's decision to increase road construction to further logging projects would be a wholesale abandonment of existing standards, guidelines, and land allocations under the Northwest Forest Plan.

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**Issue Number:** PP-OR-WOPR-09-0223-5

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

BLM obscured its intention to completely replace the existing ACS [aquatic conservation strategy] with new guidance-not just adjustments of riparian area widths. The truth is revealed only by examining a widely scattered series of technical details, which are the kinds of things that only resource management agencies and specific organizations, scientists, and others with specialized knowledge, are likely to check for. This does not meet the BLM's NEPA mandate for fair and full public disclosure of intent and action.

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**Issue Number:** PP-OR-WOPR-09-0223-6

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The FEIS does not explain the environmental consequences of eliminating the ACS. FEMAT's recognition that other aquatic conservation strategies may be effective to maintain and restore habitat has no bearing on whether the BLM's environmental impact statements' analyses for the Western Oregon

Plan Revisions describe the environmental consequences of eliminating the ACS. The ACS is the strategy that is currently in place, it has been demonstrably successful over 10 years of monitoring in key respects, and the removal of this strategy will have environmental consequences.

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**Issue Number:** PP-OR-WOPR-09-0223-7

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The FEIS claims that because the action alternatives "were not designed to accomplish each aspect or component of the Aquatic Conservation Strategy," the BLM does not need to disclose the strategies that it will use to replace the components of the ACS. FEIS at Vol. IV, 822. The BLM argues, "the purpose of this RMP revision differs from the purpose of the Northwest Forest Plan." Id. at 823. This statement does not provide the effects analysis required by NEPA

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**Issue Number:** PP-OR-WOPR-09-0223-8

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

Under NEPA, BLM must disclose the effects of removing each aspect of the ACS and replacing or failing to replace those aspects with other strategies, and how it can still comply with these federal laws in light of those effects

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**Issue Number:** PP-OR-WOPR-09-0228-121

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM fails to disclose the full adverse effects of the elimination of the Aquatic Conservation Strategy including the requirement to avoid actions that would prevent or retard attainment of ACS objectives. The PRMP relies instead on vague and discretionary management objectives.

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**Issue Number:** PP-OR-WOPR-09-0228-124

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The FEIS analysis of "special status species" fails to address the cumulative adverse consequences of

increased habitat disturbance, reduced reserves, the threat of global warming, and elimination of

standards and guidelines, including the elimination of the survey and manage program

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### ***Summary***

The FEIS did not adequately analyze the impacts associated with the elimination of the Northwest Forest Plan or its components, such as the Aquatic Conservation Strategy (ACS), Key Watersheds, and Survey and Manage Standards and Guidelines.

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### ***Response***

As explained in the PRMP/FEIS at 2-139, the PRMP/FEIS analyzed the No Action Alternative, which continues management under the existing resource management plans. The existing RMPs are tiered to the Northwest Forest Plan which was approved in 1995 and subsequently amended. The No Action alternative incorporates, by reference, any plan maintenance that was documented in district annual program summary and monitoring reports published from 1996 through 2005. The analysis of the PRMP/FEIS therefore inherently addresses the elimination of the Northwest Forest Plan and its components, such as the Aquatic Conservation Strategy (ACS), through the comparison of the No Action Alternative's effects (with ACS, etc.) and the effects of the action alternatives.

The action alternatives in the PRMP/FEIS employ various riparian management strategies to achieve compliance with the Clean Water Act and Endangered Species Act, without having the discrete "conservation strategy" found in the Northwest Forest Plan. The PRMP/FEIS includes a cumulative effects analysis that takes into account the effects of the various alternatives in the context of reasonably foreseeable effects from actions on all land ownerships. It would be improper for the agency to incorporate assumed effects into the alternative design and then analyze the assumed effects. However, the agency must analyze the effects of the actions actually proposed, i.e. the land allocations, management guidelines and so on.

The DRMP/DEIS specifically discussed the No Action Alternative's consideration of Survey and Manage Standards and Guidelines at 2-65. The No Action Alternative, as analyzed in the FEIS, includes Survey and Manage Standards and Guidelines consistent with the January 2001, Record of Decision and Standards and Guidelines Amendments to the Survey and Manage, Protection Buffer, and other Mitigation Measures Standards and Guidelines in Forest Service and BLM Planning Documents within the Range of the Northern Spotted Owl. The No Action Alternative did not include subsequent Records of Decision because those decisions were subject to litigation, and their implementation was uncertain at the time of the FEIS.

Implementation of a decision to remove the Survey and Manage Standards and Guidelines would change the effects of the No Action Alternative from the effects analyzed in the FEIS. However, the BLM has determined that the effects of removing the Survey and Manage Standards and Guidelines would still be within the range of effects analyzed in the FEIS. Such an amendment to the No Action Alternative would change the effects of the No Action Alternative to be more similar to the effects of the action alternatives, none of which included the Survey and Manage Standards and Guidelines.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## **Impact Analysis - Fire and Fuels Management**

**Issue Number:** PP-OR-WOPR-09-0233-61  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

"NEPA places upon an agency the obligation to consider every significant aspect of the

environmental impact of a proposed action," Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council, 435 U.S. 519, 553 (1978). The BLM has utterly failed to consider the environmental impacts of (1) its proposed fire-risk management strategies, (2) continued fire suppression, and (3) post-fire logging

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### ***Summary***

The FEIS omits any analysis of the environmental consequences of fire and fuels management strategies in the PRMP/FEIS.

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### ***Response***

The environmental consequences of the fire and fuels management proposed in the FEIS broadly and qualitatively describes the future Fire Regime Condition Class for each alternative (PRMP/FEIS at 4-805 to 4-812) using principles described in the LANDFIRE project (PRMP/FEIS at 4-807). The FEIS analyzes fire severity, hazard, and resiliency and ranked the alternatives in terms of these factors. The planning area was separated into two geographic areas (north and south) for the analysis to more effectively address differences in topography, weather conditions, and vegetation types (PRMP/FEIS at 4-808). The FEIS discloses the results of the fire and fuels analysis (PRMP/FEIS at 4-805 to 4-812). Specifically, the analysis concluded:

- 1) In the north, over the next 100 years, all alternatives would reduce fire severity and hazard because all alternatives would reduce the abundance of stand establishment and young forests (PRMP/FEIS Figure 4-176 at 4-809).
- 2) In the Medford District under the PRMP, fire resiliency would increase over time in the Uneven-age Timber Management Area and decrease over time in the Timber Management Area (PRMP/FEIS Figure 4-178 at 4-811 to 4-812.).
- 3) The Klamath Falls Resource Area shows a decrease in fire severity and hazard and an increase in fire resiliency over time (PRMP/FEIS at 4-810 to 4-812).

For additional information on issues raised by the protester, please refer to the response for "Impact Analysis-Wildfire Suppression" and "Impact Analysis-Salvage." For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## Impact Analysis - Fish

**Issue Number:** PP-OR-WOPR-09-0223-13  
**Organization:** Pacific Rivers Council  
**Protester:** John Kober

**Issue Excerpt Text:**

The BLM has not adequately disclosed the effects of eliminating the ACS, and replacing it with highly managed Riparian Management Areas on salmon population viability

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**Issue Number:** PP-OR-WOPR-09-0223-23  
**Organization:** Pacific Rivers Council  
**Protester:** John Kober

**Issue Excerpt Text:**

Impacts of Road Construction and Operation, Maintenance, and Management of Existing Roads on aquatic resources, fish and water quality are not adequately disclosed in the FEIS, nor are they adequately addressed in the comparison of the alternatives.

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**Issue Number:** PP-OR-WOPR-09-0223-9  
**Organization:** Pacific Rivers Council  
**Protester:** John Kober

**Issue Excerpt Text:**

The FEIS merely deems these adverse effects (on aquatic species from changes to riparian buffer

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widths) "insignificant and localized" without any hint of analysis to substantiate such a biological determination.

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**Issue Number:** PP-OR-WOPR-09-0228-37  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The EIS fails to disclose the adverse impacts on aquatic species due to the reduction in protection of LSRs.

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**Issue Number:** PP-OR-WOPR-09-0233-46  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The limited analysis of the impacts of the proposed alternative on fish violates NEPA because (1) two fish species (the Lost River Sucker and the Shortnosed Sucker) were not analyzed at all and (2) other fish species were either given limited or no disclosure on impacts to their health and populations. See Cascadia Wildlands, et al., public comment dated January 9, 2008, at pages 55-56, 61-62.

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### *Summary*

The PRMP/FEIS did not analyze impacts to the Lost River and shortnose suckers, and other fish species were either given limited or no disclosure on impacts to their health and populations.

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### *Response*

The PRMP/FEIS includes a thorough analysis and discussion of the affected environment, current habitat conditions, species status, existing and historical species distribution, and effects of the alternatives on habitat for all fish species. The PRMP/FEIS presented information on the life history, distribution, and factors limiting threatened and endangered species throughout the planning area in the discussion of the Affected Environment (PRMP/FEIS at 3-362 to 3-372). Special Status Species located within the planning area are described on page 324 of Appendix J. Specific information on the life history, population, status, and distribution, as well as conservation and recovery measures, for the Lost River and shortnose suckers is included in the PRMP/FEIS (PRMP/FEIS Appendix J at 355 to 357).

The FEIS analyzes the current conditions and anticipated effects of the alternatives on key

ecosystem processes that have the greatest influence on fish habitat for all fish species. The ecosystem processes analyzed include wood delivery (PRMP/FEIS at 3-372 to 3-384, 4-779 to 4-797, Appendix J at 374 to 381), fine sediment delivery (PRMP/FEIS at 3-385 to 388, 4-799 to 4-800), stream shade/temperature (PRMP/FEIS at 3-388 to 3-389, 4-759 to 764, 4-801), nutrient input (PRMP/FEIS at 3-384 to 3-385, 4-797 to 4-799), and peak flows (PRMP/FEIS at 4-753 to 4-759, 4-800 to 4-801). The fish species affected by BLM management are similar enough in their habitat requirements to permit an analysis of how changes to large wood, nutrient input, sediment, flow, or temperature would affect fish habitat in general (PRMP/FEIS at 4-779).

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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### **Impact Analysis - Fisher**

**Issue Number:** PP-OR-WOPR-09-0216-9

**Organization:** Individual

**Protester:** Nellie Patterson

**Issue Excerpt Text:**

The historic range of the fisher included the totality of the BLM Lands within the planning area. In recent decades, fisher populations have declined precipitously while logging in its old forest habitat has enormously increased. These trends, together with increased cutting of late seral stage timber under the action alternatives, would be expected to lead to decreases in high-quality fisher habitat if one of these alternatives is implemented. These alternatives, with greatly increased clearcutting and thinning operations, would not be expected to provide the large, contiguous expanses of dense forest cover the fisher requires.

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**Issue Number:** PP-OR-WOPR-09-0233-24

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

In 2004, the USFWS found that the Pacific Fisher was warranted for listing under the ESA, but

precluded by higher priority actions. In other words, the only reason that the Pacific Fisher is not currently listed as a threatened or endangered species is that the USFWS has not had the time to get to it yet. Despite the Fisher's imperiled status, the BLM has developed no cohesive strategy to ensure that the Pacific Fisher will persist into the future. The PRMP under WOPR will further reduce Fisher habitat by significant margins, and will likely lead toward extinction of the species from the planning area. The BLM's failure to prevent the Pacific Fisher from going extinct, and its failure to disclose and analyze the significant impacts to the Fisher, including cumulative impacts, is a violation of FLPMA, the ESA, and NEPA.

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**Issue Number:** PP-OR-WOPR-09-264-28

**Organization:** Klamath-Siskiyou Wildlands Center

**Protester:** Joseph Vaile

**Issue Excerpt Text:**

The Pacific fisher "is warranted, but precluded from listing" due to a lack of resources from the USFWS. The WOPR further threatens this already at-risk species by pursuing clearcutting of important fisher habitat in southwest Oregon. This is a clear violation of FLMPA, 43 U.S.C. § 1701(a)(8).

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### ***Summary***

The BLM's failure to prevent the Pacific fisher from going extinct and its failure to disclose and analyze the significant impacts to the fisher, including cumulative impacts, is a violation of FLPMA, ESA, and NEPA.

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## ***Response***

The West Coast population of the fisher (*Martes pennanti*) was petitioned for listing under the ESA in 2000. In 2004, the U.S. Fish and Wildlife Service found that listing was “warranted but precluded” by higher priority actions (Federal Register 2004, 18770). Subsequently, the fisher was added to the U.S. Fish and Wildlife Service’s candidate species list (Federal Register 2004, 18770). In the planning area, the fisher has been documented to occur in the Coos Bay, Eugene, and Medford Districts, and suspected to occur in the Roseburg District and the Klamath Falls Resource Area (PRMP/FEIS at 3-318 to 3-319).

The Pacific fisher is included as a BLM special status species. The management objectives for the fisher and other species with the special status species designation, includes conserving the species and the ecosystems they depend on, ensuring actions are consistent with conservation needs, and using all available methods and procedures to improve the condition of special status species and their habitat (PRMP/FEIS at 3-315). The PRMP is designed to best meet the purpose and need of the plan revision, while complying with the requirements of the ESA and the BLM’s Special Status Species Policy.

The PRMP/FEIS addresses impacts to the fisher by analyzing foraging and natal habitats on BLM lands in the planning area (PRMP/FEIS at 3-300 and 3-321). Foraging and natal habitats are critical components to address in the analysis because forest structure and associated prey are thought to be the critical habitat features for the fisher (Buskirk and Powell 1994) (PRMP/FEIS at 3-319).

Across BLM-administered lands within the planning area, fisher foraging habitat would increase by 15 percent by 2056 (PRMP/FEIS at 4-716). Fisher foraging habitat would increase in all time intervals in the Salem, Eugene, and Coos Bay Districts. The PRMP would increase fisher foraging habitat by 2106 in the Coos Bay District (74 percent) and Eugene Districts (61 percent), with similar trends in the Salem District (PRMP/FEIS at 4-713 and 4-716). Foraging habitat would decline through 2026 in the Roseburg and Medford Districts (PRMP/FEIS at 4-716).

Natal habitat would decline during the first 20 to 50 years of plan implementation in all districts and the Klamath Falls Resource Area, except for the Salem District (natal habitat would increase in all time periods) (PRMP/FEIS at 4-716). Total natal habitat would increase 72 percent under the PRMP by 2106 (PRMP/FEIS at 4-716).

Old forest natal habitat, which is defined as structurally complex old forest and very old forest, would decrease on all districts within the planning area by 2106. Under the PRMP, old forest natal habitat would be reduced to 68 percent of the existing level (PRMP/FEIS at 4-717). In the Klamath Falls Resource Area, old forest natal habitat would decline more than 50 percent from current levels (PRMP/FEIS at 4-717).

The spatial configuration of natal habitat is as important as the amount of acres. Lewis and Hayes (2004) concluded that landscapes comprised of large contiguous patches of late-seral forests were more likely to support the fisher than more fragmented landscapes. Large blocks of mature or structurally complex forest habitat would be expected to form within the late-

successional management areas under the PRMP (PRMP/FEIS at 4–720). Assuming that fisher would respond positively to increases in the amount, mean patch size, and connectivity of natal habitat, fisher habitat condition would improve under the PRMP in the Coast Range Province (PRMP/FEIS at 4–720). Fisher habitat conditions would improve in the Klamath and Eastern Cascades Provinces under the PRMP as well (PRMP/FEIS at 4–720). Connectivity on BLM-administered lands would remain relatively stable in the Klamath and Western Cascade Provinces, and the mean patch size of mature and structurally complex forest habitat would increase under the PRMP (PRMP/FEIS at 4–720).

The PRMP/FEIS describes effects on fishers in sufficient detail for making a reasoned choice among the alternatives. For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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### Impact Analysis - Grazing

**Issue Number:** PP-OR-WOPR-09-0207-8  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

DEIS that the FEIS consider and disclose the effects of grazing and other activities on water quality in the Klamath Basin, particularly Upper Klamath Lake, and the effects of these activities on Lost River and shortnose suckers. The FEIS does not analyze and disclose the effects of the proposed grazing and grazing related activities under the PRMP.

**Issue Excerpt Text:**  
We specifically requested in our comments on the

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### Summary

The PRMP/FEIS does not analyze and disclose the effects of the proposed grazing and grazing-related activities, specifically effects on water quality and Lost River and shortnose suckers.

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### Response

The grazing impacts on water quality, specifically contribution of contaminants to water, are discussed in the PRMP/FEIS at 4-777 to 4-778. The grazing impacts on fish including the Lost River and shortnose suckers, specifically effects leading to fine sediment delivery, are discussed in the PRMP/FEIS at 4-799 to 4-800.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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### Impact Analysis - Logging in Specific Land Use Allocations

**Issue Number:** PP-OR-WOPR-09-0207-6  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

logging in LSMA and RMAs for yarding, road building, and other reasons permitted in the PRMP

**Issue Excerpt Text:**  
The FEIS fails to consider and disclose the effects of

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**Issue Number:** PP-OR-WOPR-09-264-12  
**Organization:** Klamath-Siskiyou Wildlands Center

**Protester:** Joseph Vaile

from yarding and minimized the impacts from logging related roading, landing and staging area construction.

**Issue Excerpt Text:**

The BLM failed to address the sediment impacts

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***Summary***

The FEIS fails to consider and disclose the effects of activities associated with logging such as yarding and road building in Late-Successional Management Areas (LSMAs) and Riparian Management Areas (RMAs).

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***Response***

The PRMP/FEIS analyzes the environmental consequences of proposed management actions, including timber harvest and associated road construction, in Chapter 4. Though the analysis is not explicitly organized by land use allocation, the analysis includes effects to those resources occurring within the LSMA and RMA land use allocations.

In the LSMA and RMA, timber harvest will be limited to thinning and other silvicultural treatments to provide for fish, wildlife, and water quality. Thinning is expected to occur on 74,880 acres of the non-harvest land base (LSMA and RMA) in the first 10 years of PRMP implementation. This is compared to 146,400 acres of thinning, and 76,570 acres of regeneration harvest expected to occur on the harvest land base in the same time period (PRMP/FEIS Table 4-38 at 4-38). Thinning prescriptions within the LSMA and RMA would retain snags and coarse woody debris (PRMP/FEIS at 2-28, 2-29 and 2-33), unless snags or debris must be removed for safety or operational reasons. This is in contrast to the TMA, where there is no requirement under the PRMP/FEIS for coarse wood and snag retention.

New road construction associated with thinning would be in proportion to the amount of management activity occurring in each land use allocation. Therefore, fewer miles of new road would be constructed within the LSMA, as compared to the TMA. In addition, most new roads would be located outside of the stream influence zone, as most primary transportation routes parallel to streams have already been constructed (PRMP/FEIS at 4-766). Due to the lower level of stand manipulation occurring in the LSMA and RMA land use allocations, the environmental impacts associated with logging and logging related activities will be less in LSMA and RMA than in the TMA under the PRMP/FEIS.

The FEIS describes the consequences of generalized management level direction of the proposed resource management plan. Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions (BLM Land Use Planning Handbook H-1601-1, Chapter II, A-B at 11-13 and Chapter IV, B at 29; PRMP/FEIS at 1-19 to 1-20 and 5-895). The FEIS does not analyze fully the effects that may occur from all site-specific implementation-level actions that the BLM may conduct in the future under such a plan. Site-specific effects would be incorporated into implementation level actions (PRMP/FEIS at 4-479). As such, effects related to such activities as logging and road building in the LSMA or RMA would be analyzed and addressed when an action is proposed for implementation.

Accordingly, Best Management Practices for individual forest management activities would be specified during the planning of implementation level actions (PRMP/FEIS at 4-765; Appendix I at 268 to 318). Activities in LSMA and RMA land use allocations would be consistent with the management objectives for these areas summarized in the PRMP/FEIS Summary at 4 and explicitly described at 2-28 and 2-32 to 2-35.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## Impact Analysis - Marbled Murrelet

**Issue Number:** PP-OR-WOPR-09-0204-21  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR FEIS fails to discuss or consider in adequate detail the findings, recommendations, and requirements of the Marbled Murrelet Recovery Plan. The Murrelet Recovery Plan (at 127) stresses the "[m]aintenance of suitable and occupied marbled murrelet nesting habitat in ... Bureau of Land Management-administered forests is an essential component for stabilization and recovery of the marbled murrelet." The Recovery Plan continues to state that the Northwest Forest Plan's Late Successional Reserves are critical for the murrelet's recovery (at 131). Nor does the FEIS or the PRMP address the impact on recovery of the marbled murrelet from the dramatic reduction of riparian reserves. "Additional habitat is protected through other designations such as ... riparian reserves. ... The [Northwest] Forest Plan provides a substantial contribution towards protecting nesting habitat on Federal lands, especially habitat that is currently occupied by marbled murrelets, and represents the backbone of this Recovery Plan strategy." Recovery Plan at 119. See also Recovery Plan at 127-28 (specific recovery actions of "decreasing the time for development of new habitat"); at 143 (recommendation to protect additional recruitment habitat). The FEIS and PRMP do not adequately address the scientific findings in the Recovery Plan. This failure to take the requisite hard look renders the FEIS and PRMP inadequate under NEPA.

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**Issue Number:** PP-OR-WOPR-09-0233-20  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Though the BLM is aware of continued murrelet decline, the WOPR action alternatives will increase

logging and disrupt the reserve system that is critical for murrelet recovery. Although the WOPR recognizes that murrelets are "experiencing significant declines in reproduction, numbers, and distribution, resulting in reduced population viability," FEIS 3-306, the BLM proposes more of the same activity that caused the current murrelet decline.

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**Issue Number:** PP-OR-WOPR-09-0233-21  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

According to the FEIS,

old forest nesting habitat for marbled murrelets would decline from 153,000 acres under all alternatives and decline 10% or less under the No Action Alternative, Alternative 1 and the [Proposed Resource Management Plan]. Under Alternative 2, it would decrease by 31% by 2106 before it would stabilize by 2106; and under alternative 3, it would decline continuously through 2106, by 66%.

FEIS 4-687. These declines in habitat indicate not only that harm may occur but that it will occur. Without compliance with the NFP (i.e., the No Action Alternative), the nesting habitat for the marbled murrelet would decrease. FEIS S-18 (illustrating the greatest increase in murrelet habitat under the No Action Alternative). This anticipated decline in habitat coupled with the agency's failure to consult demonstrates that murrelet survival and recovery will be jeopardized in violation of the ESA.

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**Issue Number:** PP-OR-WOPR-09-0233-22  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The WOPR FEIS also fails to consider and disclose

the cumulative impacts to marbled murrelet populations from logging on state and private lands such as the Elliot State Forest and others.

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**Issue Number:** PP-OR-WOPR-09-0260-10

**Organization:** Individual

**Protester:** Bruce Campbell

**Issue Excerpt Text:**

the FEIS and all action alternatives clearly violate the Endangered Species Act by seeking to eliminate critical habitat especially in the Medford District of BLM. Not only are areas in Zone 2 eliminated from consideration for more sensitive management to help the murrelet (these are the zones from the Northwest Forest Plan rather than the six zones related to the

MAMU [marbled murrelet] recovery plan), but the action alternatives in the WOPR's FEIS would eliminate even some areas of the more coastal proximate Zone 1!

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**Issue Number:** PP-OR-WOPR-09-0260-13

**Organization:** Individual

**Protester:** Bruce Campbell

**Issue Excerpt Text:**

There is also no analysis of the substantial logging plans of BLM within LSRs east of Coos Bay, as well as how the connectivity is between the populations of MMCZs [marbled murrelet conservation zones] 3 and 4. MMC Zones 3 and 4 also have implications for murrelets to the north and south.

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***Summary***

The BLM has failed to provide an adequate analysis of the impacts of the PRMP on the marbled murrelet.

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***Response***

The PRMP/FEIS used the most recent scientific information on the biological condition of the marbled murrelet across the planning area: Huff et al. 2006, Nelson et al. 2006, McShane et al. 2004, USDI USFWS 2004 5-year review, and others (PRMP/FEIS at 3-299 to 3-306 and 4-684 to 4-697).

The PRMP/FEIS used this scientific information, along with direction from the 1997 Final Recovery Plan to assess the effects of the PRMP on both short- and long-term conservation needs of the marbled murrelet. Short-term actions to stabilize murrelet populations include maintaining occupied habitat and large blocks of suitable habitat. Long-term actions include increasing the amount and distribution of nesting habitat and decreasing threats to survivorship (PRMP/FEIS at 3-299).

The U.S. Fish and Wildlife Service published its final rule on marbled murrelet critical habitat in January 1996. Approximately 463,000 acres of critical habitat occur on BLM-managed lands (PRMP/FEIS at 3-306). In order to facilitate impact analysis in the PRMP/FEIS, marbled murrelet nesting habitat was modeled as stands in the mature (with multilayered canopy) and structurally complex forest structural stages (PRMP/FEIS at 3-306).

The Marbled Murrelet Recovery Plan designated six conservation zones (USDI USFWS 1997). The recovery objectives for the marbled murrelet are measured in each conservation zone, with the objective of ensuring a well-dispersed population of marbled murrelets. The entire conservation Zone 3 and the northern half of conservation Zone 4 overlay the PRMP planning area. As connectivity of marbled murrelet populations between conservation zones is not identified as a recovery objective in the USFWS Marbled Murrelet Recovery Plan, it is not analyzed in the PRMP/FEIS (PRMP/FEIS at 3-299).

The 226 currently occupied sites on BLM-managed lands would continue to receive protection under the PRMP (PRMP/FEIS at 4-684). Future occupied sites and adjacent recruitment habitat would be protected under the PRMP because management direction under the PRMP requires pre-project surveys in suitable habitat and protection for identified occupied sites (PRMP/FEIS at 2-70).

By the year 2106, marbled murrelet nesting habitat is expected to increase from the current condition of 367,000 acres to 588,000 acres under PRMP (PRMP/FEIS at 4-685 to 4-686). In Zone 1, marbled murrelet nesting habitat would increase 82 percent under the PRMP on western Oregon BLM-administered lands. District specific increases in murrelet nesting habitat would vary from 55 to 122 percent. The Coos Bay District is the only district that would exhibit a short-term decline in murrelet nesting habitat in Zone 1, initially declining 8 percent by 2026, but increasing 63 percent by 2106. Under the PRMP, murrelet nesting habitat in Zone 1 would increase from 244,000 to 444,000 acres, and would maintain 93,000 acres of existing old forest marbled murrelet nesting habitat (FEIS/PMRP at 4-687 to 4-688). While lands within Zone 2 have not been identified as crucial for the recovery of the marbled murrelet, nesting habitat would increase 21,000 acres (19 percent) by 2106 under the PRMP in the western Oregon BLM (PRMP/FEIS at 4-691 to 4-692).

Impact analysis regarding potential survivorship in the PRMP/FEIS is addressed through analysis of mean patch and core area size. An increase in the size of core areas would dictate that more nesting opportunities further from edge habitat would develop. This would result in a decrease in potential nest predation (Raphael et al.2002a and 2002b, Meyer et al. 2002).

The assumptions used in the PRMP/FEIS as the basis for conclusions on murrelet habitat, even when considering apparently conflicting research, conclude that more habitat is better for the murrelet, larger blocks of habitat are better for the murrelet, and less edge is better for the murrelet. Using these scientific criteria, the quantity of marbled murrelet nesting habitat on BLM-administered lands in the planning area would increase under all alternatives by 2106. Under the PRMP, patch and core area size would increase by 2106 in mature and structurally complex stands in the Coast Range and Klamath Provinces. This increase would indicate improving nesting habitat conditions for the marbled murrelet. The increase in core area size would offset increases in edge density (PRMP/FEIS at 4-696 to 4-697).

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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## Impact Analysis - Northern Spotted Owl

**Issue Number:** PP-OR-WOPR-09-0192-4  
**Organization:** Forest Service Employees for Environmental Ethics  
**Protester:** Andy Stahl

**Issue Excerpt Text:**

The FEIS continues to base its analysis of the spotted owl on habitat, but reveals nothing about how the

owl's population will be affected by WOPR. In fact, the FEIS acknowledges that its analysis "cannot predict how the northern spotted owl population would respond numerically to the alternatives." Thus, by BLM's own admission, its habitat analysis does not meet NEPA's purpose of disclosing the environmental impact of the proposed action on the northern spotted owl. Alaska Wilderness League v.



Kempthorne, 2008 U.S. App. LEXIS 23861 (9th Cir. Nov. 20, 2008).

In evaluating the reasonably foreseeable impacts of a proposed project in which information is incomplete or unavailable, "the agency shall always make clear that such information is lacking." 40 CFR section 1502.22. The FEIS does so. It candidly discloses that BLM does not know how WOPR will affect the northern spotted owl population; in fact, according to the FEIS, there is no "credible means to evaluate how the alternatives...would affect those [spotted owl] populations." FEIS at 4-680. NEPA, however, requires more of BLM than just admitting it doesn't have a clue. NEPA also requires that the FEIS provide "a summary of existing credible scientific evidence which is relevant to evaluating the reasonable foreseeable significant adverse impacts on the human environment, and, the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community." 40 CFR section 1502.22.

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**Issue Number:** PP-OR-WOPR-09-0204-10  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

All of the action alternatives analyzed in the FEIS will decrease protections for northern spotted owl habitat by eliminating reserves or allowing logging within reserves. Given that the loss of old-growth habitat has been the major cause of decline for the owl, adoption of the proposed resource management plan will increase the risk of extinction of the northern spotted owl in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0204-16  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR final EIS also violates NEPA because it fails to discuss the effects of the WOPR on Northern Spotted Owls. Specifically, the FEIS dismisses the need to assess the effects of the WOPR on the owl because these effects are uncertain, rather than discussing relevant scientific studies and assessing the uncertain effects as required by Council on Environmental Quality (CEQ) regulations.

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**Issue Number:** PP-OR-WOPR-09-0204-17  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS fails to address or even mention any of the existing scientific evidence relevant to evaluating the effects of the WOPR on the Northern Spotted Owl. The fact that the BLM believes that there is some uncertainty as to whether or not certain effects will occur does not excuse the BLM from all further analysis of such effects; rather, the BLM is required to consider the relevant science and address in a meaningful way the uncertainties surrounding the WOPR's effects on the owl. The BLM's failure to consider the relevant science on how the WOPR will effect the owl and failure to assess the effects of the WOPR on the owl render the FEIS inadequate under NEPA and its implementing regulations.

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**Issue Number:** PP-OR-WOPR-09-0207-23  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fails to disclose the direct and indirect effects of the PRMPs on large and small blocks of Northern Spotted Owl habitat. The analysis of large and small blocks is only conducted across all land ownerships. No BLM specific analysis is presented.

The FEIS fails to consider the quality of owl habitat in the analysis. Factors that the FEIS fails to consider are the lack of green tree, down wood, and snag retention in TMAs. The FEIS is flawed because it considers areas that represent low quality habitat (e.g. 11" diameter, no legacy structures) as equivalent to very old, complex stands.

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**Issue Number:** PP-OR-WOPR-09-0207-26  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

**Issue Excerpt Text:**

In addition to the shortcomings listed in the scientific peer reviews, the WOPR FEIS and PRMPs violate NEPA and will jeopardize the Northern Spotted Owl in violation of the Endangered Species Act Because:

The WOPR FEIS uses a habitat definition that ignores the importance at the landscape scale and context of late mature stands to owl habitat (for example see: Dugger et al. 2005, Carroll and Johnson 2008). The FEIS analysis provides no minimum patch size or consideration of edge effects.

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**Issue Number:** PP-OR-WOPR-09-0207-33  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

**Issue Excerpt Text:**

The WOPR FEIS fails to consider the effects of the proposed actions on owl populations.

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**Issue Number:** PP-OR-WOPR-09-0216-8

**Organization:** Individual

**Protester:** Nellie Patterson

**Issue Excerpt Text:**

Projections of available old forest dependent species habitat over the next 100 years rely on silvicultural methods that are highly controversial and speculative in nature. For instance, concerning northern spotted owl nesting habitat and dispersal habitat on BLM-administered lands, the FEIS states:

"The differences in habitat development between the PRMP and the No Harvest reference analysis are due to thinning and other stand treatments ... to improve habitat conditions or reduce wildfire risk ... "

No scientific evidence is presented in support of this conclusion. The stand treatments referred to (mainly thinning and prescribed burning) yield highly uncertain results that cannot be quantified, have not

been validated by experience, and will be observable only in the far future.

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**Issue Number:** PP-OR-WOPR-09-0233-19

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The WOPR will jeopardize the northern spotted owl because it will remove environmental safeguards put in place by NFP to ensure northern spotted owl survival. The northern spotted owl is a threatened species that occupies late-successional and old-growth forests throughout the Northwest, including the BLM districts at issue. See 55 Fed. Reg. 26, 114 (June 26, 1990); 57 Fed. Reg. 1796 (Jan. 15, 1992). The NFP was a coordinated attempt at a regional management plan for the recovery of the owl. The FWS determined that the physical and biological features essential to the conservation and recovery of the northern spotted owl are those that support the owl's nesting roosting, and foraging] -"suitable habitat" -linked by connective dispersal habitat. Id. at 1797, 1805, and 1828. The NFP created several hierarchical land allocations to ensure the continued survival of the owl, the most protective of which is the LSR.

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***Summary***

The BLM has failed to provide an adequate analysis of the impacts of the PRMP on the northern spotted owl. The PRMP/FEIS only considers impacts on northern spotted owl habitat.

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***Response***

The PRMP/FEIS used the most recent scientific information on the biological condition of the northern spotted owl across its range (Anthony et al. 2004, Courtney et al. 2004, USDI USFWS 2004a, and Lint 2005 (PRMP/FEIS at 3-284 to 3-285). In addition, the BLM, in cooperation with the U.S. Fish and Wildlife Service, developed quantitative definitions of northern spotted owl habitats across the analysis area (PRMP/FEIS at 3-285). Interagency Vegetation Mapping Project data was verified using over 10,000 inventory plots and subsequently used to compile vegetation characteristics for northern spotted owl habitat (PRMP/FEIS Appendix B at 16).

The analysis in the FEIS makes no presumption on the efficacy of silvicultural treatments to create habitat conditions; it analyzes how these stands will change over time. The modeling of forest conditions is based on empirical data and observed responses of forest structural conditions to growth and treatment, as described in Appendix R (PRMP/FEIS Appendix R at 674 to 682). The classification of habitat characteristics in the analysis varies for species: the classification of northern spotted owl habitat is based on specific forest structural characteristics (PRMP/FEIS at 3-285). The analysis in the FEIS modeled the forest conditions resulting from forest growth, silvicultural treatments, and harvesting and classified the resulting forest

conditions by the habitat classifications for different species. The results of the modeling of forest conditions and habitat classification are quantified in the analysis.

The conclusion presented in the FEIS about the difference in quantified analytical outcomes between the PRMP and the No Harvest reference analysis provides an explanation why the analytical outcomes differed, not a presumption underlying the analysis. This explanation in the FEIS is consistent with existing research cited in the FEIS regarding the effect of thinning and other silvicultural treatments on forest structural conditions. Research reveals that currently managed plantations of young forests are developing along a trajectory that is fundamentally different from that experienced by most of the existing structurally complex forests on BLM-administered lands (Muir et al. 2002, Poage and Tappeiner 2002, Sensenig 2002, and Tappeiner et al. 1997) (PRMP/FEIS at 3-213). Other research reconstructing the stand development of late-successional forests on BLM-administered lands in western Oregon suggests that large, old-growth trees generally developed under low-stand densities (Spies 2006, Poage and Tappeiner 2002, Sensenig 2002, Tappeiner et al. 1997) (PRMP/FEIS at 3-201). Thinning dense young stands is one management tool to reduce stands densities.

The U.S. Fish and Wildlife Service published its most recent final rule on northern spotted owl critical habitat on July 13, 2008 (PRMP/FEIS at 3-298). The final rule designated 44 critical habitat units (CHUs) in western Oregon, of which 25 CHUs are on BLM-administered land in the planning area. These CHUs include 688,900 acres of BLM-administered land of which 656,300 acres (95 percent) are capable of supporting forest. Of these forest-capable acres, 358,400 acres (55 percent) currently support northern spotted owl suitable habitat, and an additional 58,600 acres (9 percent) currently support spotted owl dispersal habitat (PRMP/FEIS at 3-298).

The BLM developed land use allocations in the PRMP in conjunction with the U.S. Fish and Wildlife Service's development of the Final Recovery Plan for the Northern Spotted Owl (USFWS 2008a). Current northern spotted owl CHUs are based on the Final NSO Recovery Plan. As a result of the collaborative planning, all northern spotted owl CHUs on BLM-administered lands within the planning area would be in the non-harvest land base under the PRMP. The northern spotted owl CHUs overlap to a substantial degree with the late-successional management areas allocated in the PRMP. Management practices employed in this allocation would enhance the value of critical habitat for the survival and recovery of the northern spotted owl (PRMP/FEIS Appendix H at 212).

The PRMP/FEIS used the most recent scientific information along with direction from the 2008 Final NSO Recovery Plan to assess the effects of the PRMP on four key conservation needs for the northern spotted owl: (1) large block distribution and development, (2) dispersal habitat between large blocks and through geographic areas of concern, (3) management to reduce habitat loss from catastrophic fire, and (4) development of functional owl nest territories (PRMP/FEIS at 4-644 to 4-681).

The suitable and dispersal habitat acreage on BLM-administered lands within CHUs would increase each decade under the PRMP between 2006 and 2106, with suitable habitat increasing by a total of 74.2 percent and dispersal habitat increasing by a total of 10.2 percent over the one hundred year timeframe (PRMP/FEIS Appendix H at 213).

The PRMP/FEIS references several studies that confirm there are multiple factors which are currently affecting the northern spotted owl population (PRMP/FEIS at 3-284 to 3-285), some of which are habitat-related (e.g., timber harvest and wildfire) and others which are not directly related to habitat (e.g., competition from barred owls and west Nile virus). Since scientists currently cannot separate the effects of these influences on spotted owl populations, the BLM has no credible means to evaluate how the PRMP (which would affect primarily habitat) alone would affect those populations (PRMP/FEIS at 4-680). Instead, the PRMP/FEIS analysis examines how the alternatives would affect the estimated number of functional northern spotted owl nest territories on all land ownerships and the number of known and predicted spotted owl sites on BLM-administered lands in the non-harvest land base (PRMP/FEIS at 4-680 to 4-681).

The PRMP/FEIS did analyze patch size using FRAGSTATS and eCognition v4.0 software (PRMP/FEIS Appendix B at 18 to 25). These programs utilize a wide variety of landscape metrics for patch density and edge density. Under the PRMP, the mean patch size on BLM-administered lands would increase in the Coast Range (PRMP/FEIS at 4-525), Klamath (PRMP/FEIS at 4-529), and Eastern Cascades Provinces (PRMP/FEIS at 4-531) and decrease slightly in the West Cascades (PRMP/FEIS at 4-527).

Patch-size analysis is not used separately in the owl analysis, but patch size is factored into the analysis of functional nest territory, which utilizes the type, quantity, and spatial arrangement of habitat (PRMP/FEIS at 4-680).

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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## Impact Analysis - Off-Highway Vehicle Use

**Issue Number:** PP-OR-WOPR-09-0157-2

**Organization:** Individual

**Protester:** Elizabeth Holliday

[For a list of additional protesters see Appendix B.](#)

**Issue Excerpt Text:**

Specifically, the PRMP and EIS fail to disclose the potential impacts of these ORV area designations on other recreational uses or the many residents who live within and adjacent to the proposed ORV emphasis areas.

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**Issue Number:** PP-OR-WOPR-09-0204-29

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

BLM is in violation of NEPA because it has not evaluated all reasonable direct, indirect, and cumulative environmental impacts from its designation of OHV emphasis areas and OHV-

oriented SRMAs. The agency underestimates the impacts of ORV use and does not conduct a sufficient analysis of the specific lands included within the designated OHV areas, even though this information is readily available. Further, BLM does not take the "hard look" at the environmental implications of its OHV designations as required by NEPA.

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**Issue Number:** PP-OR-WOPR-09-0204-30

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

Not only would BLM be ignoring its mandate under 43 C.F.R. § 8342.1(c) to minimize conflicts between ORV use and other existing recreational uses of the same public lands, its designation of the Anderson Butte and other similar OHV emphasis areas would contradict BLM's mandate under the O&C Act to manage O&C lands in order to protect existing high quality recreational opportunities, as outlined in the Interior Solicitor's Memorandum at 10 (May 14,

1981). The ramifications of this and similar adverse impacts from the designation of OHV emphasis areas are potentially significant yet are not described in any detail in the FEIS.

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**Issue Number:** PP-OR-WOPR-09-0204-31

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

the FEIS fails to disclose the potential impacts of OHV area designations on the many residences that border proposed OHV emphasis areas. These include OHV emphasis area designations in the PRMP for Anderson Butte, Elliot Creek and Timber Mountain/Johns Peak (FEIS, Chapter 2 - Recreation at 98) - the latter which includes within its boundary 292 individual private parcels. These proposals are included in the PRMP despite BLM's requirement to "ensure the compatibility of (OHV) uses with existing conditions in populated areas, taking into account noise and other factors" (43 C.F.R. § 8342.1(c)).

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**Issue Number:** PP-OR-WOPR-09-0205-1

**Organization:** Public Employees for Environmental Responsibility

**Protester:** Sharon Duggan

**Issue Excerpt Text:**

Despite detailed comments from PEER and others, the final EIS and WOPR PRMP does not adhere to these requirements, and instead allows ORV use which will excessively interfere with other recreational uses or damage natural resources. The WOPR PRMP does not provide analysis to respond to how the approved concentrated use will damage soil, watershed, vegetation, and other resources, and will not harm or harass wildlife and their habitats. The WOPR designates several hundred thousand acres of ORV areas and trails as open or limited, without any analysis of the designations for consistency with the above criteria. The Executive Orders and federal regulations go beyond the disclosure of impacts required under NEPA; they prohibit the agency from designating areas or trails for ORV use when such use conflicts with wildlife or wildlife habitats, damages soil, watershed or vegetation, conflicts with other recreationists or neighboring private lands, considering noise and other factors. The WOPR also does not deal with predictable impacts, including conflicts with non-motorized recreationists.

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**Issue Number:** PP-OR-WOPR-09-0205-2

**Organization:** Public Employees for Environmental Responsibility

**Protester:** Sharon Duggan

**Issue Excerpt Text:**

As noted in our comments on the draft, BLM is subject to permitting requirements for designation of its ORV trails and roads, and must comply with requirements of the federal Clean Water Act. The Final EIS does not effectively evaluate the environmental effects associated with noncompliance, or adequately respond to our comments on this issue as required by the National Environmental Policy Act. Should the BLM proceed without obtaining required permits, it violates the law. *League of Wilderness Defenders v. Forsgren*, 309 F.3 1181 (9th Cir. 2002).

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**Issue Number:** PP-OR-WOPR-09-0207-5

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fails to analyze the effects of OHVs on resources.

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**Issue Number:** PP-OR-WOPR-09-0232-3

**Organization:** Individual

**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

Specifically, the PRMP and EIS fail to disclose the potential impacts of these OHV area designations on other recreational uses or the many residents who live within and adjacent to the proposed OHV Emphasis Areas.

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**Issue Number:** PP-OR-WOPR-09-0235-12

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

With considering the cumulative impacts of OHVs across the district and without meaningful public input, the BLM cannot proceed further to define and implement the expanded OHV infrastructure.

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**Issue Number:** PP-OR-WOPR-09-0235-13

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The new OHV staging areas and trailheads will facilitate OHV recreation over thousands of acres. Motorized recreation has a much greater impact to natural resources than any other recreation on BLM lands. The FEIS failed to properly consider this top-

sided, damaging recreation emphasis.

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**Issue Number:** PP-OR-WOPR-09-0235-8

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The FEIS inappropriately allows for additional Off Highway Vehicle (OHV) infrastructure in the Roseburg district without considering the site specific or cumulative environmental impacts of increasing OHV use. One new staging area and two new OHV trailheads on the Roseburg district will encourage and allow more legal, and illegal OHV use.

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**Issue Number:** PP-OR-WOPR-09-0235-9

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

Not only did the DEIS and FEIS fail to consider the impacts of additional OHV use, it also failed to consider the impacts of additional illegal OHV use. If the BLM cannot control the current OHV use, more use will mean not only more legal resource damage, but also more illegal resource damage.

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**Issue Number:** PP-OR-WOPR-09-0257-3

**Organization:** Individual

**Protester:** Carolyn Kingsnorth

**Issue Excerpt Text:**

Specifically, the PRMP and EIS fail to disclose the potential impacts of these OHV area designation on other recreational uses or the many residents who live within and adjacent to the proposed OHV emphasis areas.

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***Summary***

The BLM does not take the "hard look" at the environmental impacts of its OHV designations, including OHV Emphasis Areas, as required by NEPA.

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***Response***

The BLM has presented sufficient information (PRMP/FEIS at 3-412 to 3-421) and analysis (PRMP/FEIS at 4-817 to 4-825) to reach informed decisions concerning the impacts of OHV use and travel management decisions on specific resources, such as wildlife (PRMP/FEIS at 4-704), water quality (PRMP/FEIS at 4-777), sensitive plant species (PRMP/FEIS at 4-621), and soils (PRMP/FEIS at 4-842). These impacts are described at a level appropriate to a plan-level analysis.

The OHV areas and OHV Emphasis Areas would be managed according to interim management guidelines until subsequent comprehensive travel management plans are completed. Individual BLM districts will make final route designations and analyze the environmental impacts of those designations in a comprehensive, interdisciplinary travel and transportation management plan scheduled to be completed no later than 5 years after completion of the RMP revision (PRMP/FEIS at 2-61 to 2-62 and Appendix K). These proposed designations will be analyzed through a public scoping and NEPA process as appropriate. The issues raised by protesters on this subject regarding the merits of the potential specific designations are more relevant at the stage in the decisionmaking process when the BLM makes route designations.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## Impact Analysis - Plan Versus Site Specific

**Issue Number:** PP-OR-WOPR-09-0162-2

**Organization:** Dancing Sheep Farm

**Protester:** Andy Stahl

**Issue Excerpt Text:**

Although BLM prepared an EIS for WOPR, that statement does not assess the impacts to private land that result from debris torrents and avalanches. Thus BLM's decision to manage the steep terrain above Dancing Sheep Farm for timber production was made without fully considering its environmental consequences.

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**Issue Number:** PP-OR-WOPR-09-0162-3

**Organization:** Dancing Sheep Farm

**Protester:** Andy Stahl

**Issue Excerpt Text:**

NEPA requires that BLM assess the environmental consequences of WOPR. Although BLM prepared an EIS for WOPR, that statement does not assess the impact to Doak Creek from timber management in the creek's headwaters, as WOPR proposes.

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**Issue Number:** PP-OR-WOPR-09-0162-5

**Organization:** Dancing Sheep Farm

**Protester:** Andy Stahl

**Issue Excerpt Text:**

But subsequent site-specific decisions will not revisit or reconsider WOPR's land allocation decisions set forth in WOPR's associated maps. The site-specific decision to manage BLM's holdings in Doak Creek for timbering purposes is made by WOPR; thus the environmental consequences to Doak Creek from timber management must be assessed in WOPR's EIS.

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**Issue Number:** PP-OR-WOPR-09-0207-10

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The analysis lacks sufficient resolution to differentiate between alternatives. For many resources the outcome of the analysis for each alternative is so similar that it provides little for the decision maker to base the decision on.

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**Issue Number:** PP-OR-WOPR-09-0230-1

**Organization:** Individual

**Protester:** John (Jack) Duggan

**Issue Excerpt Text:**

No analysis was done on the impacts to Forest Creek.

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**Issue Number:** PP-OR-WOPR-09-0233-58

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The Timber Mountain/Johns Peak area contains steep slopes and highly erosive soils. OHV use would lead to exacerbated landslides and accelerated erosion, affecting water quality. Such OHV use in this area would lead to impacts in water quality violating the Clean Water Act. This concern was raised by Cascadia Wildlands, et al., on January 9, 2008, at page 151, and was not addressed in the FEIS. The BLM's failure to address increased erosion and impacts to water quality are violations of NEPA §1502.9(b), §1503 and the Clean Water Act.

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### *Summary*

The PRMP did not adequately address site-specific impacts associated with implementation actions such as timber harvest.

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### *Response*

The PRMP/FEIS provides an adequate discussion of the environmental consequences, including the cumulative impacts, of the PRMP and alternatives (PRMP/FEIS at 4-479 to 4-862). As required by 40 CFR 1502.16, the PRMP/FEIS provides a discussion of the environmental impacts of the alternatives including the proposed action, any adverse environmental effects which cannot be avoided should the proposal be implemented, the relationship between short-

term uses of man's environment and the maintenance and enhancement of long-term productivity, and any irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented. The PRMP/FEIS presented the decisionmaker with sufficiently detailed information to aid in determining whether to proceed with the PRMP or make a reasoned choice among the other alternatives in a manner such that the public could have an understanding of the environmental consequences associated with the alternatives, in accordance with 40 CFR 1502.1.

Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions (BLM Land Use Planning Handbook H-1601-1, Chapter II, A-B at 11-13 and Chapter IV, B at 29; PRMP/FEIS at 1-19 to 1-20 and 5-895). The PRMP contains only planning actions and does not include any implementation actions. A more quantified or detailed and specific analysis would be required only if the scope of the decision included implementation actions. As specific actions that may affect the planning area come under consideration, the BLM will conduct subsequent NEPA analyses that include site-specific project and implementation-level actions, which may include but are not limited to timber harvest, fuels treatment, restoration, or other ground-disturbing activities (PRMP/FEIS at 4-479 and 5-895). These analyses will tier to the FEIS analysis and expand the environmental analysis when more specific information is known. In addition, as required by NEPA, the public will be offered the opportunity to participate in the NEPA process for these implementation actions.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## Impact Analysis - Salvage

**Issue Number:** PP-OR-WOPR-09-0207-34  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

**Issue Excerpt Text:**

The WOPR FEIS fails to consider the effects of post-fire logging on owls including the publication by Clark (2007).

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**Issue Number:** PP-OR-WOPR-09-0207-9  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS does not disclose the effects of post-fire logging and other forms of "salvage". These actions have significant effects especially in LSMAs, RMAs, and Deferred Timber Management Areas under the PRMP.

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**Issue Number:** PP-OR-WOPR-09-0228-150  
**Organization:** Oregon Wild & Klamath Siskiyou

Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The EIS must consider the following adverse effects of salvage logging:  
Salvage logging move small fuels from the canopy to the ground and increases fire hazard;  
Salvage logging retards vegetative recovery by disturbing seeds, soil, seedlings, removing protective canopy cover;  
Salvage logging exacerbates the "snag gap" by removing large snags that are the most likely to last longest and persist into the snag gap caused by stand replacing fires;  
Salvage logging significantly increases the risk of introducing and spreading weeds;  
Salvage logging compounds and amplifies the ecological harms caused by the fire itself such as erosion, peak flows, habitat loss;  
Salvage logging threatens the climate by increasing biological respiration, reducing wood piece size, and reducing carbon storage;



Salvage logging makes a bad situation worse for big game by removing what little cover remains after fire;  
Salvage logging removes habitat for species that rely on snags including birds, insects, fish, and others.  
Salvage logging deprives the newly developing forest of the complex structural legacies.  
Salvage logging converts complex young forest (which are extremely rare and valuable) into simplified young forests (which are already vastly over-represented).

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**Issue Number:** PP-OR-WOPR-09-0233-61  
**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

"NEPA places upon an agency the obligation to consider every significant aspect of the environmental impact of a proposed action," Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council, 435 U.S. 519, 553 (1978). The BLM has utterly failed to consider the environmental impacts of (1) its proposed fire-risk management strategies, (2) continued fire suppression, and (3) post-fire logging

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***Summary***

The FEIS does not disclose the effects of post-fire logging and other forms of salvage.

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***Response***

Information on the effects of salvage associated with the PRMP/FEIS is incomplete or unavailable (PRMP/FEIS at 4-493 to 4-495). The analysis of the effects of salvage after natural disturbances (the location, timing, severity, and extent of which cannot be predicted, as discussed above) prior to their occurrence would require making speculative assumptions regarding specific circumstances and therefore the conclusions of the analysis would be arbitrary. Issues raised by the protestors regarding salvage are better addressed at the time there is a salvage situation when more specific information is available including location, timing, severity, etc. Frequencies and severities of natural fire regimes are presented in the FEIS (PRMP/FEIS at 3-394 to 3-407). The FEIS provides a general summary of existing scientific evidence and evaluation of impacts (PRMP/FEIS at 4-494). Additional information on potential changes not incorporated into analysis due to the speculative nature of future natural disturbance is explained in Chapter 4 (PRMP/FEIS at 4-490 to 4-495).

The purpose of CEQ regulation at 40 CFR 1502.22 is to advance decisionmaking in the absence of complete information regarding environmental effects associated with the proposed action. Disturbance is expected to occur under all alternatives but predicting their location, timing, severity and extent would be speculative. Such disturbances may alter the future abundance and spatial pattern of structural stages and habitat (PRMP/FEIS at 4-490 to 4-494). Statistical analysis based on historical averages would not result in information that would further the understanding of the effects of each alternative or aid in making a decision between alternatives.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## Impact Analysis - Soils

**Issue Number:** PP-OR-WOPR-09-0190-3

**Organization:** Individual

**Protester:** Elaine Wood

The assumption in WOPR that "there would be no adverse effects to soils in riparian reserves," when there will be tree removal in the RR's is unsubstantiated;

**Issue Excerpt Text:**

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### *Summary*

The BLM has failed to provide an adequate analysis of impacts related to soils.

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### *Response*

Chapter 4 of the PRMP/FEIS describes the analysis of potential impacts to forest and rangeland soils from the following activities: timber harvest, road and landing construction, prescribed fire, site preparation, juniper removal, grazing, and OHV use (PRMP/FEIS at 4-837 to 4-842).

Analysis in the PRMP/FEIS determined that sediment delivery to streams as a direct result of timber harvest activities would be immeasurably small at the scale of this analysis. As specific actions that may affect soils come under consideration, the BLM will conduct site-specific analyses that will expand the environmental analysis in the PRMP/FEIS. The implementation of Best Management Practices and the Riparian Management Areas to prevent surface soil disturbance, intercept and filter any deliverable sediments from timber harvest activities, and limit or avoid delivery of fine sediment to streams as a result of timber harvest would be applied at the site-specific level (PRMP/FEIS at 4-765; Appendix I at 268 to 318).

The Best Management Practices are the same or improved practices used from 1995 to 2006 under the current resource management plans (as represented by the No Action Alternative) and would be used under all alternatives to provide for soil productivity (PRMP/FEIS at 4-837). These practices include the application of site specific Best Management Practices to prevent or limit soil compaction, displacement, and disturbance over the entire land base (PRMP/FEIS Appendix I at 268 to 318).

The PRMP/FEIS determined that under all alternatives, long-term conservation, and the productive capacity of the forest and rangeland soils across the planning area would be maintained (PRMP/FEIS at 4-837). For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## Impact Analysis - Timber Productivity Capability Classification Withdrawn Areas

**Issue Number:** PP-OR-WOPR-09-0207-38

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS is unclear on how lands classified as Administratively Withdrawn TPCC landslide-prone areas will be managed. The FEIS response to comment #232 states "The BLM Timber Productivity Capability Classification identifies susceptible landforms to mass wasting, and these lands have been withdrawn from management activity (see Chapter 3, Water section)."

However the FEIS on page 2-27 states: "Areas identified as withdrawn from the harvest land base through the timber production capability classification system do not have specific management objectives or management directions. They may be managed similarly to the adjacent or surrounding land use allocations..."

Although TPCC withdrawn lands are classified in the "non-harvest" land base through out the FEIS it appears from this statement that TPCC withdrawn lands in the TMAs may be subject to the same intensive management practices as the surrounding areas.

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**Issue Number:** PP-OR-WOPR-09-0207-7

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fails to consider and disclose the effects of management activities on lands Administratively Withdrawn because of TPCC classification for unstable areas.

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### ***Summary***

The FEIS is unclear on how lands classified as Administratively Withdrawn Timber Productivity Capability Classification (TPCC) areas will be managed and fails to consider and disclose the effects of management activities on those lands.

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### ***Response***

The PRMP (PRMP/FEIS at 3-347) states that the BLM uses the timber productivity capability classification (TPCC) to screen for low forest productivity timberlands and landslide-prone areas, and withdraws them from general forest management. The PRMP/FEIS at 2-27 states that lands withdrawn from the harvest land base through the TPCC may be managed similarly to the adjacent or surrounding land use allocations, if those uses are not incompatible with the reason for which the lands were withdrawn. Therefore, since the lands were withdrawn as not being suitable for timber harvest, they will not be subject to programmed timber harvest. Other silvicultural activities may take place on these lands, however. The impacts from management activities other than use for timber production have been described in Chapter 4 of the PRMP/FEIS. The management of TCPP withdrawn lands would be consistent with the management direction described in the PRMP.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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### **Impact Analysis - Vegetation**

**Issue Number:** PP-OR-WOPR-09-0007-6

**Organization:** Individual

**Protester:** Gordon Lyford

**Issue Excerpt Text:**

The FEIS does not disclose or illustrate the environmental impact of each alternative on the "Existing Old Forest" and "Existing Very Old Forest" stages (Existing Structurally Complex, see FEIS page 714 Appendix R).

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## Summary

The PRMP/FEIS does not disclose the effects on Existing Old Forest and Very Old Forest.

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## Response

The environmental consequences of the various alternatives to structurally complex forests including existing old and very old forests are analyzed in the PRMP/FEIS at 4-514 to 4-515. Table 4-5 at 4-516 displays the projected impacts to the percent of old forest harvested by 2106 under each alternative.

Structurally complex forests are predominately existing old forest (60 percent) with a smaller amount of developed structurally complex (37 percent) (i.e., stands that meet the defining attributes of structurally complex but are identified as less than 200 years old in the current inventory), and only a very small amount of existing very old forest (3 percent) (PRMP/FEIS at 3-214). A subset of this subdivision (Existing Very Old Forest, representing stands that are 400 years or older) is also identified based on current inventory. The assignment of ages to these stands is imprecise but represents the only available data across BLM-administered lands within the planning area (PRMP/FEIS at 3-208).

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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## Impact Analysis - Water

**Issue Number:** PP-OR-WOPR-09-0223-23

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

Impacts of Road Construction and Operation, Maintenance, and Management of Existing Roads on aquatic resources, fish and water quality are not adequately disclosed in the FEIS, nor are they adequately addressed in the comparison of the alternatives.

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**Issue Number:** PP-OR-WOPR-09-0228-63

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM failed to disclose cumulative water quality impacts caused by existing roads, new roads, past logging, expanded future logging, increased use of clearcutting methods, plus thinning and fuel

treatments, grazing, spread of weeds and POC root disease, grazing, ORVs, mining, inadequate BMPs, and the negative effects of all of these may be exacerbated by climate change. The EIS sets forth lots of relativistic analyses, but fails to say whether the cumulative impacts may approach or surpass various thresholds of concern for wildlife, water quality, peak flows, atmospheric carrying capacity for greenhouse gases, etc.

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**Issue Number:** PP-OR-WOPR-09-0228-74

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM failed to consider the cumulative impacts of the existing road system and proposed new roads and how they will interact with future climate change. BLM claims that precipitation levels are uncertain, but even if the total annual amount of rainfall is

uncertain, there is a virtual certainty that warming will intensify the global hydrologic cycle (more evaporation and more precipitation), and there is fairly strong agreement among experts that the frequency and intensity of winter storms are likely to increase in the Northwest. This means that 5 year storms might come every 2-3 years, 10 year storms might come every 5 years, 50 year storms might come every 20-30 years, etc. This also means that the ditches and culverts designed for the past climate may not be compatible with the future climate. There could be far more peak flow events, sediment filled ditches delivering to streams, and plugged culverts, road fill slumps and landslides. When climate driven hydrologic events stress our aquatic ecosystems then there is less room for anthropogenic disturbances. Watersheds may be more stressed from climate-

driven disturbance than disclosed in the EIS and watersheds may be less tolerant of clearcutting and roads than assumed in the EIS.

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**Issue Number:** PP-OR-WOPR-09-0233-41

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The FEIS Action Alternative violates the O&C Act by failing to protect streams and watersheds in any of the proposed action alternatives and violates the National Environmental Policy Act (NEPA) by not discussing mitigation methods. See Cascadia Wildlands, et al., public comment dated January 9, 2008, at pages 45-47.

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***Summary***

The BLM did not adequately address impacts to aquatic resources, especially from roads.

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***Response***

The FEIS addresses conditions of and expected consequences to instream large wood, peak flows, sedimentation, and water temperature, and further assesses the effects on aquatic habitats and species. The FEIS concludes that implementation of specific actions under the PRMP management direction is likely to increase potential large wood inputs to streams and thereby improve fish habitat (PRMP/FEIS at 4-780 to 4-786). Sediment delivery would not increase by more than 1 percent and would, therefore, be below the threshold for measurable effects to fish (PRMP/FEIS at 4-799). Streamside shade would be maintained and would not affect water temperature (PRMP/FEIS at 4-801). All alternatives would provide for riparian and aquatic conditions that supply stream channels with shade, sediment filtering, leaf litter, large wood, and stream bank stability (PRMP/FEIS at 4-794 to 4-801). The analysis found that the alternatives would not have any substantial effects on peak flow (PRMP/FEIS at 4-756 to 4-801).

The PRMP/FEIS assesses the influence of roads on peak flows (PRMP/FEIS at 3-358 and 4-754). Application of Best Management Practices in specific implementation actions would limit or avoid delivery of sediment to water bodies (PRMP/FEIS Appendix I at 268 to 318). Therefore, water quality for instream beneficial uses, including source water protection, would be protected, thus complying with the Clean Water Act (PRMP/FEIS at 4-778).

Regarding a reach-level analysis, land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions. Therefore, a more quantified or detailed and specific analysis would be required only if the scope of the decision was a discrete or specific action.

For information regarding the impacts of climate change, please refer to the response for "Impacts of Climate Change on PRMP." For additional information on the impact analysis used

in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Impact Analysis.”

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## Impact Analysis - Wildfire Suppression

**Issue Number:** PP-OR-WOPR-09-0192-5  
**Organization:** Forest Service Employees for Environmental Ethics  
**Protester:** Andy Stahl

**Issue Excerpt Text:**

We hereby protest WOPR's decision to require "[i]mmediate action to suppress and control wildfire using direct control. . . in all areas." FEIS at 52. The WOPR FEIS omits any analysis of the environmental consequences of WOPR's decision to take immediate action to suppress and control wildfire. Although the FEIS acknowledges that past fire suppression activities have had significant environmental effects, see FEIS at 507, 527, 530, it provides no analysis of the effects of future fire suppression activities required by WOPR. NEPA requires that BLM disclose the environmental effects of its decision to take immediate action to suppress and control wildfire, and to consider alternatives, e.g., using indirect control suppression strategies and/or

Appropriate Management Response. *Forest Servo Emples. for Envtl. Ethics v. United States Forest Serv.*, 397 F. Supp. 2d 1241 (D. Mont. 2005) (federal agency must comply with NEPA in its decision to use aerial fire retardant).

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**Issue Number:** PP-OR-WOPR-09-0233-61  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

"NEPA places upon an agency the obligation to consider every significant aspect of the environmental impact of a proposed action," *Vt. Yankee Nuclear Power Corp. v. Natural Res. Def. Council*, 435 U.S. 519, 553 (1978). The BLM has utterly failed to consider the environmental impacts of (1) its proposed fire-risk management strategies, (2) continued fire suppression, and (3) post-fire logging

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## Summary

The PRMP/FEIS fails to analyze the environmental impacts of the decision to take immediate action to suppress and control wildfire.

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## Response

The FEIS analyzes the effects of wildfire suppression to the extent effects are reasonably foreseeable at this scale of analysis. Impacts from activities linked to fire suppression (natural and prescribed) are disclosed in the FEIS at a detail adequate for a land use plan-level analysis. The impacts discussed include: air (PRMP/FEIS at 3-409), special forest products (PRMP/FEIS at 4-607), botany (PRMP/FEIS at 4-611 and 4-619), wildlife (PRMP/FEIS at 4-668, 4-682, 4-703 and 4-709 to 4-710), water (PRMP/FEIS at 4-775 to 4-777), and soils (PRMP/FEIS at 4-839).

Tactics for suppression of wildfires in the PRMP/FEIS are common to all alternatives, including the no action alternative, and the PRMP (PRMP/FEIS at 2-120 and Table 2-62 at 2-178). Best Management Practices (PRMP/FEIS Appendix I at 293 to 298 and 318) have been adopted to reduce or eliminate potential environmental consequences of fire suppression activities. The NEPA compliance for wildfire suppression actions is guided by the BLM NEPA Handbook (H-1790-1 at 11).

It is not possible to accurately predict the total acreage of wildfires or other disturbances at the scale of the planning area (PRMP/FEIS at 4-491; Spies 2006:84). To predict total acreage of wildfires for BLM-administered lands, which are highly dispersed among other ownerships, would be far more speculative. To attempt to predict wildfire acreage and subsequent suppression actions for BLM-administered lands at finer scales, or to predict wildfire severity, timing, or extent would be so speculative as to be arbitrary. Such disturbances would have the potential to alter the future abundance and spatial pattern of structural stages and habitat (PRMP/FEIS at 4-490 to 4-493).

For additional information on issues raised by protesters, please refer to the response for "Impact Analysis-Fire and Fuels Management" and "Impact Analysis-Salvage." For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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### *Opportunity to Comment*

**Issue Number:** PP-OR-WOPR-09-0137-1

**Organization:** Individual

**Protester:** Kate Gessert

**Issue Excerpt Text:**

After B.L.M. released its Alternative 2 W.O.P.R. map for public comment in August 2007, the map was revised. On a January 2008 map, 50 square miles west of Territorial Road between Crow and Lorane had been changed from Late Successional Management Area (LSMA), where older forests would be protected, to Timber Management Area (TMA), where forests would be cut. This left only 11.5 square miles of LSMA in our area, the southwest Eugene B.L.M. District. Although B.L.M.'s public comment period was still open when this map was made, people couldn't comment on the map because they were not told about it.

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**Issue Number:** PP-OR-WOPR-09-0137-2

**Organization:** Individual

**Protester:** Kate Gessert

**Issue Excerpt Text:**

If the Final Draft of the W.O.P.R. goes ahead, a large timber-cutting area will lie west of us. Impacts on our homes will include smoke, herbicide, and losses in wildlife, home values, recreation, and environmental education. And all of this when the plan and the map we were given to comment on bore no resemblance to what was actually going forward!

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**Issue Number:** PP-OR-WOPR-09-0207-22

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

Because the WOPR FEIS relies on a plan that was not written until after the DEIS the WOPR FEIS violates NEPA for failing to allow for meaningful public participation and comment on the DEIS. The BLM must provide a comment period and issue a supplemental EIS that considers comments and the attached peer reviews of the Final Recovery Plan.

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### *Summary*

The BLM made changes from the Draft to the Proposed RMP/EIS that warrant a comment period through which the public could review and comment on these changes.

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### *Response*

The BLM has prepared the Draft and Final EISs in accordance with 40 CFR 1502.9 and provided

opportunity for public comment on the DRMP/DEIS in accordance with the 40 CFR 1503.1(a)(4). The BLM's land use planning process is a collaborative and iterative process, allowing and encouraging continuous plan development and refinement based on input from BLM specialists, cooperating agencies (including local governments), organizations, and the public.

Neither the CEQ regulations for implementing NEPA (40 CFR Part 1500) nor the BLM planning regulations (43 CFR Part 1600) require the BLM to circulate the PRMP/FEIS for public comment. Provision of a comment or review period would only be necessary in the case of issuing a supplemental EIS, as required by 40 CFR 1502.9. In line with regulations and BLM guidance, the BLM is confident that a supplemental EIS is not warranted because the BLM did not make changes to the proposed action that would result in effects beyond those already analyzed and no significant new circumstances or information that would substantially affect the BLM's decision or its impact analysis was identified (40 CFR 1502.9, H-1790-1 at 5.3.3). Changes made between Draft and Proposed RMP, such as revision of the Late-Successional Management Area boundaries, were the result of the latest resource information and input from the public, cooperators, and specialists. These changes were within the scope of the alternatives analyzed in the DRMP/DEIS and yielded no new significant impacts.

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## *Purpose and Need*

**Issue Number:** PP-OR-WOPR-09-0204-47

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR FEIS lists three primary considerations in its purposes and needs section, and because all three are faulty, the purpose and need is unreasonably narrow. First, BLM claims that these revisions are necessary because BLM's timber harvest levels were not being achieved under existing plans. FEIS at S-2. This assertion has no factual basis.

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**Issue Number:** PP-OR-WOPR-09-0204-48

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

Because the FEIS's purpose and need is too narrow, it forecloses a reasonable consideration of alternatives. Consideration of alternatives is "the heart of the environmental impact statement." 40 C.F.R. § 1502.14. The FEIS defines the purpose and need for the WOPR so narrowly that it forecloses a reasonable range of alternatives. By defining the purpose and need for the project as driven by BLM's impermissibly narrow construction of the O&C Act, BLM's flawed assumption that timber harvest levels are not being achieved, and the need to harmonize the

use of BLM lands with the illegal revisions to spotted owl habitat, see FEIS at S-2 to S-3, BLM has impermissibly constrained its consideration of alternative uses of the BLM lands in Western Oregon to those that dramatically increase timber harvest, in violation of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0233-10

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Here, the BLM's narrow purpose, to increase timber production, narrows the alternatives in a way that will degrade environmental safeguards held in place pursuant to the ESA, which is not an act that the BLM must comply with the O&C Lands Act. *Portland Audubon Soc'y v. Babbitt*, 998 F.2d 705, 709 (9th Cir. 1993) (explaining that the O&C Lands Act must comply with NEPA and the ESA); *Seattle Audubon Soc'y v. Lyons*, 871 F.Supp. 1291, 1314 (W.D. Wash) (explaining that the O&C Lands Act "does not allow the BLM to avoid its conservation duties under NEPA or ESA, nor does it prevent injunctive relief when those duties have been breached"). Therefore, the WOPR FEIS has an unreasonable range of alternatives.

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**Issue Number:** PP-OR-WOPR-09-0233-11  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

the plan revisions: (1) the BLM alleges that timber harvest goals have not been met, FEIS 1-4, and (2) the BLM alleges that it must "re-focus" on the O&C Lands Act. FEIS 1-6. Each of these needs is unreasonable.

**Issue Excerpt Text:**

Here, the BLM advances two unreasonable needs for

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***Summary***

The BLM's purpose and need for action is too narrow; as such, it forecloses a reasonable range of alternatives.

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***Response***

In accordance with NEPA, the BLM has discretion to establish the purpose and need for action (40 CFR 1502.13). The BLM's guidance requires the BLM to construct its purpose and need to conform to existing decisions, policies, regulation, or law (BLM NEPA Handbook H-1790-1 at 6.2). The BLM did this explicitly in the PRMP/FEIS at 1-4 to 1-6. The legal mandates of the O&C Act and other applicable laws drive the purpose and much of the need for the Western Oregon Plan Revision in addition to the opportunity to coordinate management with new recovery plans and critical habitat designations (PRMP/FEIS at 1-4 to 1-6).

The BLM's interpretation of the O&C Act is consistent with the plain language of the O&C Act, the legislative history of the O&C Act, and the Ninth Circuit ruling in *Headwaters v. BLM*, 914 F.2d 1174 (9<sup>th</sup> Cir. 1990) (explained in the PRMP/FEIS Appendix A at 4 to 5). The legislative history of the O&C Act and the Ninth Circuit Court ruling in *Headwaters* make it clear that management of timber (including harvesting) is the dominant use of the O&C lands in western Oregon. That dominant use, however, must be implemented in full compliance with other applicable laws.

The PRMP/FEIS specifically details the major laws affecting the management of O&C lands and acknowledges the applicability of environmental laws to O&C lands (PRMP/FEIS at 1-4 and 1-8 to 1-12).

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***Range of Alternatives***

**Issue Number:** PP-OR-WOPR-09-0008-10  
**Organization:** Individual  
**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

The WOPR DEIS and FEIS only fully considered and analyzed alternatives that would lessen protections for BLM forests and watersheds. Yet, there are laws such as the Endangered Species Act

that the BLM has to violate in order to weaken these protections. The BLM cannot limit alternatives to those that would meet the timber industries' goals but would fail to meet its other obligations to protect clean water, recover endangered species and provide for recreation. BLM has failed to produce a reasonable range of alternatives and therefore cannot meet all of its legal obligations to protect clean water and wildlife habitat.

**Issue Number:** PP-OR-WOPR-09-0202-7  
**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club  
**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**

The WOPR DEIS and FEIS only fully considered and analyzed alternatives that would lessen protections for BLM forests and watersheds despite scientific evidence that more protected habitat is needed to conserve the threatened Marbled Murrelet and Northern Spotted Owl, not less. The BLM wrongly chose to limit alternatives to those that would meet the goal of increased timber production and failed to meet its other obligations to protect clean water, recover endangered species and provide for recreation. BLM has failed to produce a reasonable range of alternatives in violation of the National Environmental Policy Act (NEPA) and as a result cannot meet its legal obligations to protect clean water, endangered species, and wildlife habitat.

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**Issue Number:** PP-OR-WOPR-09-0204-49  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR FEIS is inadequate because it fails to consider or examine a number of reasonable alternatives. For example, the FEIS fails to consider managing all or any part of the BLM lands for carbon storage, the alternative that is most likely to promote "permanent forest production" as required by the O&C Act.

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**Issue Number:** PP-OR-WOPR-09-0204-50  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

By only considering action alternatives that cannot meet BLM's legal duties, BLM is violating the requirement that NEPA documents discuss alternatives to the proposed action, to "provid[e] a clear basis for choice among options by the decisionmaker and the public." 40 C.F.R. 1502.14; see also 42 D.S.C. § 4332(2)(E); 40 C.F.R. 1507.2(d), 1508.9(b).

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**Issue Number:** PP-OR-WOPR-09-0228-43  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM has to follow all legal requirements, not just selective laws or selective aspects of the O&C Act. In fact, the O&C Act establishes a maximum level of timber harvest based on the level of forest growth, but the Act does not establish a minimum level of timber harvest, so within these two broad limits BLM can consider a wide range of different mixes of land allocations and land uses to try to meet the multiple objectives of all BLM's legal mandates. By refusing to consider non-timber uses on lands capable of timber production, BLM failed to consider all reasonable alternatives as required by NEPA.

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**Issue Number:** PP-OR-WOPR-09-0233-1  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The BLM unlawfully limits its consideration of alternatives to ones that violate its legal obligations under the Endangered Species Act. It cannot confine its alternatives to ones that fall short of meeting the agency's other legal obligations, such as the ESA's section 7 consultation requirements. 16 U.S.C. § 1536. By only considering action alternatives that cannot meet BLM's legal duties, the BLM is violating the requirement that NEPA documents discuss alternatives to the proposed action and "[p]rovide a clear basis for choice among options by the decisionmaker and the public."

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**Issue Number:** PP-OR-WOPR-09-0233-10  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Here, the BLM's narrow purpose, to increase timber production, narrows the alternatives in a way that will degrade environmental safeguards held in place pursuant to the ESA, which is not an act that the BLM must comply with the O&C Lands Act. *Portland Audubon Soc'y v. Babbitt*, 998 F.2d 705, 709 (9th Cir. 1993) (explaining that the O&C Lands Act must comply with NEPA and the ESA); *Seattle Audubon Soc'y v. Lyons*, 871 F.Supp. 1291, 1314 (W.D. Wash) (explaining that the O&C Lands Act "does not allow the BLM to avoid its conservation duties under NEPA or ESA, nor does it prevent injunctive relief when those duties have been breached"). Therefore, the WOPR FEIS has an unreasonable range of alternatives.

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**Issue Number:** PP-OR-WOPR-09-0233-3  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Here, the BLM only considered action alternatives that increase logging in western Oregon and decrease environmental safeguards. The WOPR is a broad management plan, and the alternatives that must be considered must also be "broadened." The alternatives are unlawful because they are inconsistent with environmentally protective laws, such as the ESA. The BLM cannot artificially constrain its options by failing to consider alternatives that contain additional reserves needed to meet its duties. For example, while the BLM recognizes that "past habitat loss and current habitat loss are ... threats to the spotted owl," Final Owl Recovery Plan at VII, the action alternatives all increase timber production throughout western Oregon; thus increasing the risk of jeopardy to listed species and the threat to critical habitat. Therefore, the range of alternatives is unreasonable because the action alternatives will not satisfy the BLM's obligations under other federal statutes, including the ESA.

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**Issue Number:** PP-OR-WOPR-09-0236-2

**Organization:** Individual

**Protester:** Jennifer Council

**Issue Excerpt Text:**

The WOPR DEIS and FEIS only fully considered and analyzed alternatives that would lessen protections for BLM forests and watersheds. Yet,

there are laws such as the Endangered Species Act that the BLM has to violate in order to weaken these protections.

The BLM cannot limit alternatives to those that would meet the timber industries goals but would fail to meet its other obligations to protect clean water, recover endangered species and provide for recreation. In omitting these alternatives, BLM failed to produce a reasonable range of alternatives and therefore cannot meet all of its legal obligations to protect clean water and wildlife habitat.

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**Issue Number:** PP-OR-WOPR-09-0260-2

**Organization:** Individual

**Protester:** Bruce Campbell

**Issue Excerpt Text:**

I contend that due diligence under NEPA was not carried out because there was not a reasonable range of alternatives presented in the Final EIS of the WOPR. Certainly the No Action Alternative, which would keep the scientifically-based Northwest Forest Plan in place (to help guide management activities on federal lands in Washington, Oregon, and California within the range of the Northern Spotted Owl), is the most reasonable alternative offered, but I believe that it violates NEPA to only offer action alternatives which increase logging rates.

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***Summary***

The BLM failed to produce a reasonable range of alternatives; the BLM only analyzed alternatives that would lessen protections for resources such as forests and watersheds.

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***Response***

The FEIS considered a range of alternatives designed to meet the BLM's legal duties and purpose and need for action. The purpose and need section in the FEIS clearly states that the purpose of the agency action includes compliance not with only the O&C Act but with all applicable laws (PRMP/FEIS at 1-12). According to the CEQ regulations and the Department of the Interior NEPA regulations, "[t]he range of alternatives includes those reasonable alternatives (paragraph 46.420(b)) that meet the purpose and need of the proposed action, and address one or more significant issues (40 CFR 1501.7(a)(2-3)) related to the proposed action. Since an alternative may be developed to address more than one significant issue, no specific number of alternatives is required or prescribed" (43 CFR 46.415(b)).

The BLM's range of alternatives in the PRMP/FEIS represented a full spectrum of options. Alternatives analyzed include a no action alternative, three action alternatives, and the proposed RMP. The No Action Alternative is a continuation of current management as written.

Alternatives 1 and 2 allocated land and management between late-successional management areas, riparian management areas, and timber management areas in slightly different manners. Alternative 3 proposed one broad, general land use allocation but would manage timber over harvest intervals of 240-360 years. The proposed RMP is a modification of Alternative 2 from the DRMP/DEIS.

The BLM acknowledges many variations of alternatives could be included in the RMP analysis process. However, the BLM is not required to analyze in detail each variation, including those variations determined not to meet the RMP's purpose and need or those determined to be unreasonable given BLM mandates, policies, and programs. The CEQ states that only a reasonable number of examples covering the full spectrum of alternatives must be analyzed and compared in the EIS (Forty Most Asked Questions Concerning CEQ's NEPA Regulations, 46 Fed. Reg. 18,026, 18, 03 (March 23, 1981)).

The PRMP provides a rationale why some alternatives were considered but subsequently eliminated from further analysis (PRMP/FEIS at 2-167 to 2-170). In accordance with NEPA, the public was given an opportunity to provide input on what issues should be addressed in the plan during the scoping phase of the planning process. Suggestions for alternatives that would not meet the purpose and need articulated in the plan were not given detailed consideration. These included suggestions that the BLM cease timber harvest on O&C lands and dedicate the lands entirely to non-use for carbon storage and suggestions that the BLM intensely harvest O&C lands without regard to the needs of species listed for protection under the Endangered Species Act.

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### Increased Riparian Management Area Alternative

**Issue Number:** PP-OR-WOPR-09-0223-15

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

The DEIS and FEIS do not explain why maintaining or increasing aquatic protections is not a reasonable

alternative, despite being asked to provide such an action alternative. (In our January 11, 2007, letter we asked BLM to maintain full riparian buffers in an action alternative; our goal was to fully maintain riparian protections, though BLM had not made clear at that time its intention to remove the ACS all together).

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### *Summary*

The PRMP/FEIS fails to explain why it does not consider an alternative that maintains or expands current riparian buffers.

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### *Response*

The PRMP/FEIS analyzed the No Action Alternative, which would maintain the riparian buffer widths established under the 1995 RMPs. All action alternatives in the PRMP/FEIS were designed to comply with the purpose and need for action. The purpose for action is to manage "the BLM-administered lands for permanent forest production in conformity with the principles of sustained yield, consistent with the O&C Act. The plans will also comply with all other applicable laws including, but not limited to, the Endangered Species Act, the Clean Water Act,

and (to the extent that it is not in conflict with the O&C Act) the Federal Lands Policy and Management Act (FLPMA)" (PRMP/FEIS at 1-4).

Under the PRMP/FEIS, the BLM withdrew lands from the harvest land base as necessary to comply with applicable laws. The Riparian Management Areas (RMA), in terms of buffer width, tree height, and density, are designed to meet the anti-degradation standard for water temperature (Oregon Administrative Rule 340-041-0028). The PRMP/FEIS documents the science used to design the RMAs (PRMP/FEIS at 3-336 to 3-339). The riparian shade analysis (PRMP/FEIS at 4-759 to 4-764) found that the alternatives would avoid any measurable effect on water temperature due to riparian management buffers (PRMP/FEIS at 4-759).

The RMAs in the action alternatives already achieve compliance with Clean Water Act. Thus, an alternative that maintains or increases riparian buffer widths and thereby withdraws more land from the harvest land base would not meet the purpose and need for action.

For additional information on the alternatives in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Range of Alternatives."

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### **Natural Selection Alternative**

**Issue Number:** PP-OR-WOPR-09-0227-1  
**Organization:** Deer Creek Valley Natural Resources Conservation Association  
**Protester:** Mary Camp, Orville Camp

**Issue Excerpt Text:**

The FEIS failed to disclose that the NSA [natural selection alternative] would maximize carbon

sequestration by only harvesting trees when they are dead or dying. The FEIS failed to disclose that the NSA would minimize natural carbon loss through decay of dead and dying trees by converting much of the dead and dying trees to lumber and other useful forest products that would keep the carbon in storage indefinitely and not be released to the atmosphere.

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### ***Summary***

The BLM failed to disclose carbon storage benefits of a Natural Selection Alternative.

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### ***Response***

As explained in the PRMP/FEIS at 2-169, a natural selection alternative was eliminated from detailed study in the FEIS, including analysis of its potential carbon storage, because it would not meet the purpose and need for action. The purpose and need states that the western Oregon resource management plan revisions must meet all applicable laws. One of the applicable laws is the O&C Act. The O&C Act requires O&C lands classified as timberlands to be managed for permanent forest production following the principles of sustained yield, which include determining and declaring the annual productive capacity of such lands with the timber from those lands (not less than the annual sustained yield capacity) being sold annually.

While a natural selection management approach may be practical for a small wooded lot on relatively flat terrain, such an approach is impractical for managing a landscape of the size and ruggedness that is managed by the BLM in western Oregon. The level of roaded access and

survey efforts that would be needed to identify and harvest the trees that die on BLM-administered lands in western Oregon every year would be prohibitively expensive both in financial and environmental terms.

For additional information on the alternatives in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Range of Alternatives."

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## No Action Alternative

**Issue Number:** PP-OR-WOPR-09-0228-55

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

### Issue Excerpt Text:

In the FEIS, the No Action alternative is not really no action. BLM's analysis of the no action alternative is arbitrary and capricious. The BLM planning regulations say "no action, ... means continuation of present level or systems of resource use." 43 CFR 1610.4-5. This clearly indicates that the no action alternative should be described "as implemented."

To compound the problem, the FEIS also has a inconsistent approach to tweaking the no action alternative. BLM uses new information to shrink riparian reserves and increase timber targets ("New information based on improved mapping of hydrologic features has demonstrated that the acreage of riparian reserves is actually smaller than estimated in the 1995 RMPs/EISs." P A770), but the EIS fails to similarly adjust the budget expectation to more accurately match Congress' lack of support for high levels of logging mature & old-growth forest.

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**Issue Number:** PP-OR-WOPR-09-0235-2

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

### Issue Excerpt Text:

1. ASQ [allowable sale quantity] is 32% higher under no-action alternative (or, no-action does not comport with NEPA's requirements for no-action)

According to the EIS, the WOPR no-action alternative is not the current Resource Management Plans (RMPs) being implemented. Instead, the ASQ is 32% higher under the so-called no-action alternative than under current RMPs.

[T]he allowable sale quantity for the No Action Alternative would be 268 mmbf per year, which would be 32% greater than the 203 mmbf per year

that was declared as the allowable sale quantity in the 1995 resource management plans.

The BLM cannot increase the current ASQ of individual districts by 32% without full consideration under NEPA. In fact, the 3<sup>rd</sup> year evaluations already considered if the ASQ needed to be changed, and in 2001, the BLM decided they did not. It is a now violation of NEPA to call an increase in ASQ a "no-action" alternative.

The reason given -- improving GIS capabilities, is not adequate to change the no-action alternative from a no-action to a 32% increased action. For instance, there is no public disclosure of the GIS methods and assumptions, no NEPA consideration of environmental impacts of more logging roads, less wildlife habitat and 32% more truck traffic. A no-action alternative must be no-action. An ASQ increase of 32% should have been another alternative. The FEIS is not telling the truth when it claims: "The No Action Alternative would continue management of the current resource management plans, which were approved in 1995 and subsequently amended" (Summary-3). There was no amendment to increase volume by 32%.

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**Issue Number:** PP-OR-WOPR-09-0235-3

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

### Issue Excerpt Text:

The BLMs "Land Use Planning Handbook" is also clear the BLM cannot have a no action alternative that increases logging by 32% from the current condition: "a. The BLM must consider all reasonable alternatives, including the no action alternative (the continuation of present levels or systems of resource use). FLPMA reinforces this by saying: "One alternative shall be for no action, which means continuation of present level or systems of resource use." The BLM must comply with the Federal Land Policy and Management Act (FLPMA).

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**Issue Number:** PP-OR-WOPR-09-264-1  
**Organization:** Klamath-Siskiyou Wildlands Center  
**Protester:** Joseph Vaile

**Issue Excerpt Text:**

BLM claims that "better mapping" will reduce riparian reserves from 552,000 acres to 364,000 acres

even under the No Action alternative. This would in turn increase the ASQ by 32% to 268 mmbf. So even the No Action Alternative increases harvest by 32%. FEIS at 10. This is not a minor tweak; this is a 1/3rd increase in volume, which requires its own separate NEPA analysis. This is not a baseline for the No Action Alternative.

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***Summary***

The No Action Alternative should have been described "as implemented"; the BLM's treatment of the No Action Alternative violates NEPA.

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***Response***

The No Action Alternative was analyzed consistent with the CEQ regulations (40 CFR 1502.14 and *CEQ's 40 Most Asked NEPA Questions*, #3). The No Action Alternative would continue current management direction as outlined in the existing 1995 RMPs (PRMP/FEIS at 2-22). There is no new management added to the No Action Alternative. The management objectives and management direction for riparian reserves (including the riparian reserve widths) are unchanged. The acreage of riparian reserves was estimated in the 1995 RMP/EISs based on the information available at that time. New information based on improved mapping of hydrologic features has demonstrated that the acreage of riparian reserves is actually smaller than estimated in the 1995 RMPs/EISs. Furthermore, the analysis of the No Action Alternative was based on updated timber inventory information. To analyze the No Action Alternative using the estimation of riparian reserve extent from the 1995 RMPs/EISs and outdated timber inventory information would ignore this new information on the actual acreage that was allocated to Riparian Reserves by the 1995 RMPs and the current timber inventory and, therefore, would be inconsistent with the CEQ regulations (40 CFR 1502.24).

For additional information on the alternatives in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Range of Alternatives."

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**Range of Alternatives for Coal Bed Methane Development**

**Issue Number:** PP-OR-WOPR-09-0204-59  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

Additionally, the FEIS does not include any variation among the alternatives for management of Coal-Bed Methane Development. However, alternatives exist

that would lessen the adverse environmental impact of Coal-Bed Methane Development, such as setting limitations on the timing or amount of leasing that will be permitted in the Coos Bay District, or requiring directional drilling from existing well pads or phasing development to ensure limited disturbance at any given time.

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## **Summary**

The PRMP/FEIS failed to consider a reasonable range of alternatives for coal bed methane development.

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## **Response**

Identification of different alternatives for coal bed methane development is not necessary because 1) all BLM lands are open for energy and mineral development unless designated as closed, 2) there are currently no permits for developing coal bed methane, and 3) any developments on BLM lands would require application for a permit and subsequent NEPA analysis. During additional NEPA analysis, stipulations would be identified for incorporation into the lease agreement prior to offering the lease for sale. The Mineral Leasing Act of 1920 provides that all publicly owned oil and gas resources be open to leasing, unless designated as closed (PRMP/FEIS at 4-860; Appendix Q at 623). This was further confirmed by the Materials Act of 1947 which clarified that O&C lands were subject to the general mining law (30 U.S.C. 601).

Stipulations will adhere to those identified in Appendix I of the Resource Management Plan and are put into place to reduce environmental impacts (PRMP/FEIS Appendix I at 268 to 318). The restrictions are stipulated prior to issuance of a lease and may include timing limitations or controlling surface use. In addition, all Federal lessees or operators are required to follow procedures from a number of laws and regulations (e.g., Onshore Oil and Gas Orders, Federal Oil and Gas Royalty Management Act, 43 CFR Part 3100, etc.) as well as stipulations for special status species, soils, cultural, and other resources (PRMP/FEIS Appendix Q at 623 to 631). Any waivers for many of these stipulations have restrictions or requirements for public notices. The acreage of lands closed, open, and open with restrictions for each District is shown in Table 2-39 (PRMP/FEIS at 2-120).

As the extent of lands available for energy and mineral development is nondiscretionary, and stipulations to reduce environmental impacts would be identified during the site-specific NEPA analysis based on site-specific conditions, further identification of operating restrictions is not appropriate in broad level plan development and analysis.

For additional information on the alternatives in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Range of Alternatives.”

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## **Range of Alternatives for Grazing**

**Issue Number:** PP-OR-WOPR-09-0207-32

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS is also flawed because it only provides a single alternative for many of the actions contained in the document including grazing and OHV management. The analysis is flawed because decision maker has no range of effects for these activities to use as a basis to make a reasoned decision.



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### **Summary**

The PRMP/FEIS failed to consider a reasonable range of alternatives for livestock grazing.

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### **Response**

Management changes to livestock grazing are implemented as part of the lease renewal process when assessments indicate rangeland health is not being met. Livestock grazing on only 10 percent of the allotments in the Western Oregon Plan Revision planning area was identified via Rangeland Health Assessments to not be meeting the conservation goals for range management (PRMP/FEIS at 3-345). Because grazing is managed to meet rangeland health, there is no issue driving alternatives other than what is presented in the PRMP/FEIS. In addition, no issues were raised during public scoping that identified a need to revise current range management. Therefore, there was no purpose in examining a range of alternatives on grazing in light of this evidence.

For additional information on the alternatives in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Range of Alternatives.”

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### **Range of Alternatives for Off-Highway Vehicle Use**

**Issue Number:** PP-OR-WOPR-09-0204-60  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS also fails to consider a reasonable range of alternatives by failing to consider broad ORV closures for lands currently or proposed to be classified as riparian and late-successional reserves, key watersheds, wildlife habitat management areas, ACECs, Wild and Scenic Rivers, WSAs, RNAs, and citizen proposed wilderness areas.

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**Issue Number:** PP-OR-WOPR-09-0207-32  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS is also flawed because it only provides a single alternative for many of the actions contained in the document including grazing and OHV management. The analysis is flawed because decision maker has no range of effects for these activities to use as a basis to make a reasoned decision.

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### **Summary**

The PRMP/FEIS failed to provide a reasonable range of alternatives for OHV use.

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### **Response**

Alternatives for OHV use were identified in the PRMP/FEIS at 2-92 to 2-99. Some of the suggested alternatives would be better addressed at the district level when further site-specific travel management planning occurs and road and trails are designated. These alternatives were

not considered for further analysis in the FEIS as a result. The BLM has determined that the level of analysis in the PRMP/FEIS is appropriate for a planning level decision.

For additional information on the alternatives in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for “Range of Alternatives.”

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## *Response to Comments*

**Issue Number:** PP-OR-WOPR-09-0005-1

**Organization:** Individual

**Protester:** Joseph Patrick Quinn

**Issue Excerpt Text:**

Several questions I raised in my comments on the D.E.I.S. [regarding acres in need of thinning] were not addressed by the planning team in the final statement. I have read the chapter of volume IV, titled Use of the Inventory Data in the Modeling (ppg. 648 to 655) I do not find that the statistics represented therein, derived, as near as I can tell, by various modeling methods, some of great complexity, reflect the numbers provided by the Roseburg, Coos Bay and Medford BLM districts to Mr. Patrick Starnes.

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**Issue Number:** PP-OR-WOPR-09-0144-5

**Organization:** Individual

**Protester:** Hope Robertson

**Issue Excerpt Text:**

BLM has clearly ignored the input of thousands of people (including myself) who submitted comments, objecting to BLM’s abandonment of the forest management principles contained in the Northwest Forest Plan as well as numerous US environmental laws without providing ANY supportable sound scientific or economic justification.

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**Issue Number:** PP-OR-WOPR-09-0144-7

**Organization:** Individual

**Protester:** Hope Robertson

**Issue Excerpt Text:**

The fact that BLM has chosen to ignore the majority of the comments opposing this management plan proposal—comments from federal and state government agencies, scientists, and the public—raises serious questions about the policy direction currently being taken by BLM.

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**Issue Number:** PP-OR-WOPR-09-0188-1

**Organization:** Individual

**Protester:** Paul Torrence

**Issue Excerpt Text:**

1. The WOPR DEIS decision to neglect climate change is erroneous and deficient on two grounds; first, it fails to employ the current science to develop reasonable alternative scenarios that would serve as vital planning tools; second, it completely fails to ascertain the effects of the proposed action alternatives on forest carbon budgets and human-induced climate change as well as human welfare and economies.
2. The WOPR DEIS employs gross misinterpretations of the Wilderness Act and the O & C Act.
3. In respect to ORV-designated areas. Currently, hundreds of thousands of miles of routes give off-road vehicles abundant access to our parks, forests, and other public lands and waters creating an imbalance between the amount of land available to off-road vehicles and the amount of land available to non-motorized users.
4. Federal agencies have failed to enforce laws designed to protect our wildlands and drag their feet on implementing important new regulations.
5. ORVs also emit large amounts of pollution, including carbon monoxide, hydrocarbons, and carcinogens such as benzene. The small, inefficient two-stroke engines of some of these machines spew out as much as 30 percent of their fuel unburned polluting the soils, air, and water of our National Forests, National Parks, and other public lands including Oregon BLM holdings.
6. The idea that most ORV riders obey the laws and regulation is patently FALSE, and additional designation of ORV areas will NOT solve the problem. It will only exacerbate it.
7. The BLM has failed to analyze sufficiently the negative effects of ORVs (and their created roads) on reptiles.
8. The BLM has failed to address adequately the effects of ORV induced stress on wildlife populations.
9. The BLM has failed to analyze adequately the effects of noise from ORVs on wildlife.
10. The BLM has failed to adequately analyze the

critical negative effects of ORV-induced introduction of exotic invasive plants, pets, and pathogens onto public lands. Nowhere has BLM addressed the cost to the public, now and in the future of exotic invasives as admitted under Alternative 2.

11. The BLM has failed to analyze adequately the effects of ORVs on soils.

These concerns were documented in my 48 page submitted document, yet I do not find evidence that the FEIS dealt with my concerns and quoted scientific studies in any meaningful way.

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**Issue Number:** PP-OR-WOPR-09-0189-1

**Organization:** Individual

**Protester:** Jerry Olton

**Issue Excerpt Text:**

On November 14, 2007 I wrote the BLM (copy of letter enclosed) and addressed this issue [clearcutting is far more destructive method of harvest than selective cutting], but it seems my comments were completely ignored as was the science that pointed squarely to selective harvest as the most sustainable method over the long run.

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**Issue Number:** PP-OR-WOPR-09-0207-11

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fails to respond to comments on the DEIS

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**Issue Number:** PP-OR-WOPR-09-0207-12

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS violates NEPA because it fails to respond adequately to our substantive comments' regarding this issue [riparian reserves on unstable slopes]. Reliance on assertions by agency staff is not sufficient for NEPA analysis.

---

**Issue Number:** PP-OR-WOPR-09-0207-13

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fails to respond to our substantive comments requesting consideration and disclosure of the effects of the WOPR on the Northwest Forest Plan, the US Forest Service and other land management and conservation plans.

**Issue Number:** PP-OR-WOPR-09-0207-16

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fails to respond to our comment asking for clarification regarding the apparent conflict between the analysis in the DEIS and the species outcomes in the various Survey and Manage NEPA documents.

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**Issue Number:** PP-OR-WOPR-09-0207-18

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS provides no meaningful analysis of rare, uncommon, and sensitive species that includes the range, biology, and other important factors. The FEIS also fails to respond to our substantive comments regarding these species.

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**Issue Number:** PP-OR-WOPR-09-0207-20

**Organization:** National Center for Conservation Science and Policy

**Protester:** Richard Nauman

**Issue Excerpt Text:**

The FEIS fails to address our comments regarding the Southern Torrent Salamander

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**Issue Number:** PP-OR-WOPR-09-0223-22

**Organization:** Pacific Rivers Council

**Protester:** John Kober

**Issue Excerpt Text:**

Where it responds at all, BLM's typical pro forma "response" to comments pointing out the above or other problems is to add some cursory discussion of the information raised in the comment, perhaps even adjust some conclusions (e.g., buffer width required to protect stream shading given likelihood of post-harvest blowdown), but then make no consequently appropriate change in its proposed management. This approach utterly fails NEPA's requirements for disclosure and reasoned analysis ensuring professional and scientific integrity.

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**Issue Number:** PP-OR-WOPR-09-0228-101

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM failed to consider cumulative impacts on snags

and keystone species like primary cavity excavators and cavity users. BLM failed to consider new information on the needs of snag associated wildlife. BLM failed to respond to Oregon Wild's detailed comments on this topic. See pages 37-42 of ONRC's scoping comments.

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**Issue Number:** PP-OR-WOPR-09-0228-120  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**  
71. The FEIS failed to adequately address Oregon Wild's comments on the DEIS.

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**Issue Number:** PP-OR-WOPR-09-0228-60  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**  
Public Comments Ignored  
27. BLM failed to respond to public comments on issues such as:  
the need to mitigate climate change to meet O&C Act requirements,  
alternative ways to meet O&C Act objectives other than timber harvest,  
the challenge of meeting O&C Act objectives for community economic stability with boom-bust timber industry,  
the need to correct market imperfection in order to meet the O&C Act requirement to sell timber at reasonable prices on a normal market.  
And many many more.  
BLM can't put out a huge EIS that is so threatening to our interests and not expect detailed comments. BLM is required to respond to all substantive comments, not just those it chooses to address.

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**Issue Number:** PP-OR-WOPR-09-0228-71  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**  
BLM failed to respond to our detailed comments on the topic of climate change and it's interaction with the O&C Act, FLMPA, ESA, CWA, CAA, and other legal obligations. In particular, BLM failed to show

how O&C Act objectives for watersheds, water flow, permanent forest production, and economic stability can be met when high levels of logging will exacerbate global climate change. This was addressed in great detail in an attachment to Oregon Wild's comments (attached) and conservationists joint comments on the WOPR DEIS

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**Issue Number:** PP-OR-WOPR-09-0233-35  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**  
The BLM answered only three comments from the general public with regard to climate change and included them in Appendix T of the FEIS. The issues of climate change that were raised by agencies in their letters were not addressed and answered at all. This violates the requirements of 40 C.F.R. §1502.9(b) which requires FEIS respond to comments, discuss any responsible opposing view which was not adequately discussed in the draft statement and indicate the agency's response to the issues raised, 40 C.F.R. § 1503, as well as the Federal Land Policy and Management Act (FLPMA), which requires BLM to provide for "meaningful" public involvement.

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**Issue Number:** PP-OR-WOPR-09-0260-6  
**Organization:** Individual  
**Protester:** Bruce Campbell

**Issue Excerpt Text:**  
I sent a paper version of Part I which was regarding Port-Orford Cedar [POC]. I sent a paper copy in order to include a publication focusing on the West Illinois River and its POCs and endemic species which I wanted in the record. Apparently, it and my few pages of comments including many specific questions have gathered dust rather than been used to adequately respond to comments or to work out management policies that do not spread the poc root rot.

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**Issue Number:** PP-OR-WOPR-09-252-1  
**Organization:** Individual  
**Protester:** Shockey Family

**Issue Excerpt Text:**  
Our original concerns included the unknown role of mycorrhizal communities in the forest and on the earth, and as medicine for people and the planet. We did not see anything substantive included in the DEIS response to comments

## *Summary*

The BLM failed to adequately respond to comments on the Draft RMP/EIS and/or has ignored information submitted during the planning process.

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## *Response*

The BLM considered all information and comments submitted during the planning process, beginning with scoping in September 2005. In February 2006, the BLM specifically provided the public an opportunity to comment on its methodologies in the *Proposed Planning Criteria and State Director Guidance*. The BLM considered and used public input to refine its analytical approaches to planning.

The BLM complied with the NEPA regulations at 40 CFR 1503.4 by performing a detailed comment analysis which assessed and considered all substantive comments received on the DRMP/DEIS. All 30,000 letters received on the Western Oregon Plan Revision DRMP/DEIS were compiled, reviewed, and analyzed to determine whether the comments submitted were substantive. The systematic process used by the Interdisciplinary (ID) Team for identification of substantive comments is described in the PRMP/FEIS Appendix T at 763. The ID Team labeled comments “substantive” when the submission identified, with reasonable basis, errors in the analysis that would substantively alter analytical conclusions, provided new or missing information that would substantively alter the analytical conclusions, or proposed a new alternative that would meet the purpose and need.

For all substantive comments raised, the ID Team determined if the comment warranted adding or modifying the analyses by making factual corrections or explaining why the comment did not warrant any action. Many of the comments were especially voluminous, providing extensive information on issues such as old growth harvest, off-highway vehicle use, socioeconomic effects of the alternatives, riparian management, and management of species listed under the Endangered Species Act. Some of the information and suggestions provided were not pertinent to an RMP-level document. Such comments would be more appropriate for use on a site-specific implementation action. The BLM summarized the salient points or issues raised by each comment letter and then provided substantive and meaningful responses, including the BLM's basis or rationale for its assumptions and methodology used.

Appendix T of the PRMP/FEIS at 761 to 856 lists the comments that the BLM received on the DRMP/DEIS as well as the BLM's responses to those comments, including instances where the BLM made changes to the DRMP/DEIS.

For additional information on the data and studies used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Best Available Information."

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## *Federal Land Policy and Management Act*

### *Compliance with Laws*

**Issue Number:** PP-OR-WOPR-09-0228-134  
**Organization:** Oregon Wild & Klamath Siskiyou  
Wildlands Center, Klamath-Siskiyou Wildlands  
Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The WOPR is arbitrary and capricious because it eliminates enforceable standards & guidelines in favor of highly discretionary management objectives which violates FLPMA and the BLM Planning Handbook which require that RMPs establish clear and enforceable guidance not just management objectives.

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**Issue Number:** PP-OR-WOPR-09-0228-137  
**Organization:** Oregon Wild & Klamath Siskiyou  
Wildlands Center, Klamath-Siskiyou Wildlands  
Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM failed to disclose how the PRMP will meet the requirements of substantive laws and regulations. BLM is required to comply with the full spectrum of environmental laws and implementing regulations including the O&C Act, Federal Land Policy & Management Act, Endangered Species Act, Clean Water Act, Clean Air Act, Coastal Zone Management Act, etc. The BLM may not pick and choose which laws to comply with and which it can ignore, and it may not choose to implement certain aspects of the O&C Act to the exclusion of others

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**Issue Number:** PP-OR-WOPR-09-0228-46  
**Organization:** Oregon Wild & Klamath Siskiyou  
Wildlands Center, Klamath-Siskiyou Wildlands  
Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM failed to fulfill the FLPMA planning requirement to consider the scarcity of values and available alternatives (43 USC § 1712).

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**Issue Number:** PP-OR-WOPR-09-0233-13  
**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The BLM improperly maintains that it must "re-focus" on the statutory mandates of the O&C Lands Act and the principles of sustained yield FEIS 1-6, despite precedent requiring it to comply with other environmental statutes. See Cascadia Wildlands, et al., public comments, January 9, 2008, at p. 15. This "re-focusing" translates into planning a dramatic increase in timber production and the collapse of the environmental safeguards embodied in the NFP. Such a dramatic shift in management away from the BLM's obligations under other environmental statutes and the NFP toward increased timber production is a result of the BLM's narrow interpretation of the O&C Lands Act and Headwaters.

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**Issue Number:** PP-OR-WOPR-09-0233-23  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Finally, the WOPR narrowly interprets BLM's duties under the Oregon and California Railroad and Coos Bay Wagon Road Grant Lands (O&C Lands Act) and other legislation, resulting in violations of the Federal Land Policy Management Act (FLPMA) and its implementing regulations.

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**Issue Number:** PP-OR-WOPR-09-0235-3  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The BLMs "Land Use Planning Handbook" is also clear the BLM cannot have a no action alternative that increases logging by 32% from the current condition: "a. The BLM must consider all reasonable alternatives, including the no action alternative (the continuation of present levels or systems of resource use). FLPMA reinforces this by saying: "One alternative shall be for no action, which means continuation of present level or systems of resource use." The BLM must comply with the Federal Land Policy and Management Act (FLPMA).

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### *Summary*

The BLM fails to disclose how the PRMP will meet all of its legal obligations.

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### *Response*

The BLM is confident that the Western Oregon Plan Revision complies with all applicable laws. The purpose and need in the PRMP/FEIS clearly states that part of the purpose of the agency action includes compliance with all applicable laws, including but not limited to the O&C Act, Endangered Species Act, Clean Water Act, and (to the extent that it is not in conflict with the O&C Act) the Federal Land Policy and Management Act. The PRMP/FEIS specifically details the major laws affecting the management of O&C lands and acknowledges the applicability of environmental laws to O&C lands (PRMP/FEIS at 1-4 and 1-8 to 1-12).

The PRMP was designed to meet the purpose and need for action as described above. During preparation of the PRMP/FEIS, the BLM consulted with and used data from other agencies and sources, including but not limited to U.S. Fish and Wildlife Service, National Marine Fisheries Service, the Environmental Protection Agency, and the State of Oregon. The BLM consulted on the analysis and the incorporation of available data into the PRMP/FEIS with its cooperating agencies and other agencies with jurisdiction or expertise to help ensure compliance with applicable laws

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### *Levels of Use*

**Issue Number:** PP-OR-WOPR-09-0204-41

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR fails to establish concrete levels of production or use, goals or objectives, or intervals and standards. The PRMP's lack of standards violates the requirements of FLPMA and its implementing regulations for valid resource management plans.

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### *Summary*

The Western Oregon Plan Revision PRMP/FEIS fails to establish concrete levels of production or use, goals or objectives, or intervals and standards in violation of FLPMA.

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### *Response*

The overall PRMP/FEIS goal and objective is to manage the BLM-administered lands for permanent forest production in conformity with the principles of sustained yield, consistent with the O&C Act, and for managing the lands it administers in the planning area to conserve habitat needed on these lands for the survival and recovery of species listed as threatened or endangered under the Endangered Species Act (PRMP/FEIS at 1-4). Specifically, the PRMP/FEIS describes goals and objectives through utilization of management objectives, land use allocations, and

management directions (PRMP/FEIS at 2-22). Management directions would be used where and when necessary and practical to achieve management objectives. In the description of the alternatives, the PRMP/FEIS describes specific objectives and management direction where quantified requirements are specified (PRMP/FEIS at 2-1 to 2-71).

Estimated levels of production for timber management activity by alternative are displayed in Table 4-1 and by district in Table 4-2 (PRMP/FEIS at 4-498 to 4-499), while estimated non-timber uses are displayed by alternatives in Table 4-3 (PRMP/FEIS at 4-500). Monitoring standards are established in the form of monitoring questions, requirements and intervals. Most monitoring would be designed to provide information as to whether activities are in accordance with management direction. Specific monitoring intervals and standards are addressed in the PRMP/FEIS (PRMP/FEIS at 5-883 to 5-892). In addition to the monitoring results, many of the underlying assumptions regarding levels of activities and anticipated environmental consequences would be examined at the time of the 5-year plan evaluation to determine if the plan objectives are being met or are likely to be met. The plan evaluation would make a finding of whether or not a plan amendment or plan revision is warranted (PRMP/FEIS at 5-881).

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### *Multiple Use Mandate*

**Issue Number:** PP-OR-WOPR-09-0204-46

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

In the WOPR PRMP, BLM has failed to comply with FLPMA's mandate to manage the public lands for multiple uses. BLM justified this decision with its

interpretation of the O&C Act, which BLM argues precludes it from managing O&C lands for multiple uses. Because there is no conflict between the O&C Act's mandate to manage the O&C lands for permanent forest production and FLPMA's mandate to manage the public lands for multiple uses, however, BLM erred in failing to consider multiple uses for the O&C lands.

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### *Summary*

The BLM has failed to comply with FLPMA's multiple-use mandate, which does not conflict with the O&C Act's mandate.

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### *Response*

As stated in the PRMP/FEIS at 1-9, FLPMA specifically provides that if there is any conflict between its provisions and the O&C Act related to management of timber resources or the disposition of revenues from the O&C lands and resources, the O&C Act prevails (i.e., takes precedence) (43 U.S.C. 1701). Thus, the multiple-use management direction of the FLPMA does not apply to O&C lands that are suitable for timber production. This has been the interpretation of the O&C Act in multiple administrations since the passage of FLPMA in 1976 and was upheld by the Ninth Circuit explicitly in *Headwaters v. BLM*, 914 F.2d 1174 (1990). On the other hand, in contrast to the multiple-use management direction, the planning process established by the FLPMA is applicable to the O&C lands because it is not inherently in conflict with the O&C Act's management direction for those lands. Note that the multiple-use management direction of the FLPMA does apply to other BLM-administered lands in the planning area (e.g., the public



domain lands) and to O&C lands that are not suitable for timber production. It is also evident from the PRMP that timber production is not the only use being applied to these lands.

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### ***Public Domain Land Management***

**Issue Number:** PP-OR-WOPR-09-0228-48  
**Organization:** Oregon Wild & Klamath Siskiyou  
Wildlands Center, Klamath-Siskiyou Wildlands  
Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**  
BLM failed to consider a reasonable alternative that would give extra emphasis to conservation and restoration on the 400,000 acres of public domain (PD) lands in western Oregon.

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### ***Summary***

The BLM failed to consider a restoration emphasis alternative in managing the public domain lands in western Oregon.

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### ***Response***

The FEIS considered a range of alternatives designed to meet the BLM’s legal duties and purpose and need for action (PRMP/FEIS at 1-12). According to the CEQ regulations and the Department of the Interior NEPA regulations, “[t]he range of alternatives includes those reasonable alternatives (paragraph 46.420(b)) that meet the purpose and need of the proposed action, and address one or more significant issues” (40 CFR 1501.7(a)(2–3)) related to the proposed action. There is no legal or regulatory requirement to analyze a “restoration alternative” within a land use plan EIS. As discussed in the PRMP/FEIS at 1-12, the variations in the alternatives with respect to public domain lands directly reflect the difference between the public domain lands, which have a multiple-use mandate, and the O&C lands, for which timber production is the dominant use. The PRMP would manage for certain resource values on public domain lands that it may not be able to manage for on O&C lands, including wilderness characteristics, areas of critical environmental concern, and visual resource management. On O&C lands, the BLM would not manage for these resource values if they conflicted with sustained yield timber production.

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### **O&C Lands**

#### ***O&C Lands - Alternatives***

**Issue Number:** PP-OR-WOPR-09-0173-2  
**Organization:** Individual  
**Protester:** Margaret Goodwin

**Issue Excerpt Text:**  
1. The settlement agreement resolving litigation of the Northwest Forest Management Plan (AFRC v. Clarke) required the BLM to include at least one

alternative that "will provide permanent forest production across the O&C lands without reserves except as required to avoid jeopardy under the Endangered Species Act." The WOPR did not provide an alternative without reserves. Alternative 2 came the closest, but violated that requirement in three respects:

i) Alternative 2 set aside 19% of the O&C lands as reserves for Late Successional Management, which is not specified as a goal or legitimate use of these lands under the O&C Lands Act.

ii) Alternative 2 increased the percentage of Administratively Withdrawn land from 14% to 19%,

compared with the No Action Plan.

iii) Alternative 2 reserved an additional 4% of the O&C lands for the National Land Conservation System, over and above the 3% that was originally Congressionally Withdrawn.

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### ***Summary***

The BLM is required to include an alternative that will provide permanent forest production across O&C lands without reserves except as required to avoid jeopardy.

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### ***Response***

In accordance with the Settlement Agreement, Alternative 3 provides for forest production without reserves. To avoid jeopardy, Alternative 3 was designed to provide suitable owl habitat through the use of a long-term rotation age. The O&C Act did not specify a rotation age for managing the lands. The calculation of sustained yield depends on several factors, including the rotation age for harvest. The purpose of the settlement agreement was to require the BLM to examine an alternative that had been proposed in comments by the timber industry at the time of the Northwest Forest Plan, but rejected for detailed consideration. The settlement agreement did not require selection of such an alternative. What the BLM discovered in the analysis was that an alternative with reserves would both provide greater levels of timber harvest and a better outcome for spotted owls.

Under NEPA, the BLM must analyze those alternatives necessary to permit a reasoned choice (40 CFR 1502.14). In determining the alternatives to be considered, the emphasis is on what is "reasonable" (40 CFR 1502.14(a)), which can only be defined in reference to the purpose and need for the action (BLM NEPA Handbook, H-1790-1 at 50). The PRMP/FEIS considered a range of alternatives designed to meet the BLM's legal duties and purpose and need for action (PRMP/FEIS at 2-22). The purpose of the plan revision is "to manage the BLM-administered lands for permanent forest production in conformity with the principles of sustained yield, consistent with the O&C Act," while complying "with all other applicable laws, including but not limited to the Endangered Species Act, the Clean Water Act, and (to the extent it is not in conflict with the O&C Act) the Federal Land Policy and Management Act (FLPMA)" (PRMP/FEIS at 1-4).

The need for the action explicitly includes coordination with the recovery plans and designated critical habitat for listed species (PRMP/FEIS at 1-4 to 1-6). Allocations in the PRMP, including the Late-Successional Management Area, Deferred Timber Management Area, and Riparian Management Area, have been made in the PRMP, in part, to provide consistency with recovery plans and designations of critical habitat for listed species. Not providing a mechanism by which the BLM would meet recovery needs for spotted owl and marbled murrelet would not meet the BLM's purpose and need for action.

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## *O&C Lands - Applicability of Endangered Species Act*

**Issue Number:** PP-OR-WOPR-09-0173-4

**Organization:** Individual

**Protester:** Margaret Goodwin

**Issue Excerpt Text:**

3. Last year, the US Supreme Court ruled, in *National Association of Homebuilders v. Defenders of Wildlife*, that specific law takes precedence over general law. The O&C Lands Act is specific law with respect to the O&C lands, while the Endangered Species Act is a general law. Where a conflict arises between the two, the law requires compliance with the O&C Lands Act, rather than the ESA. There is no provision in the O&C Lands Act that mandates that O&C lands should be used for preservation of old growth or endangered species. (See Legal Considerations #2 in my WOPR comments.) Furthermore, the ESA itself has a provision to exempt lands such as the O&C lands, where implementation of the ESA would cause negative economic impact. (See Legal Considerations #3.) If necessary, the BLM should request an exemption from the ESA.

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**Issue Number:** PP-OR-WOPR-09-0217-1

**Organization:** Individual

**Protester:** Trenor Scott

**Issue Excerpt Text:**

v) Therefore the Director's decision to reduce the O&C land base for timber production even below the Draft Alternative 2 does not adequately take into account *Homebuilders v. Defenders of Wildlife* (06-340) and also the recent *Land's Council v. McNair* (07-35000) decision by the 9th Circuit, which should make agency decisions much less vulnerable to disruptive litigation.

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**Issue Number:** PP-OR-WOPR-09-0233-26

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The BLM's application and selective interpretation of the O&C Act will not only lead to a trend toward listing dozens of rare plant and animal species associated with low elevation old-growth forests in the Pacific Northwest, but will also make the Special Status program ineffective at preventing species from being placed on the ESA threatened or endangered list. This approach violates the BLM's affirmative duty under FLPMA and will cause a number of species and associated habitats to dwindle.

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### *Summary*

The O&C Act precludes the application of the Endangered Species Act on O&C lands.

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### *Response*

The O&C Act provides a mandate for the BLM to manage the O&C lands for permanent forest production. However, the BLM has reasonable alternatives to accomplish the purpose of "permanent forest production." Because the BLM has discretion in the management of these lands -- regardless of the limits on that discretion -- this plan revision is a discretionary action and is therefore subject to the Endangered Species Act. Protestants refer to the *National Association of Homebuilders v. Defenders of Wildlife*, 551 U.S. \_\_\_\_ (2007) decision (*Homebuilders*). That ruling is not applicable to this plan revision because the BLM management of O&C lands is different from the Federal action analyzed in the *Homebuilders* case. At issue in that case was legislative direction to the Environmental Protection Agency (EPA) to transfer permitting authority to a State upon application and a showing that a State has met nine specified criteria. The BLM management of these lands under the O&C mandate is not a non-discretionary action. Therefore, as a discretionary action, it is distinguishable from the transfer of permitting

authority by the EPA considered by the Court in *Homebuilders*.

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### *O&C Lands - Deferred Harvest Management Areas*

**Issue Number:** PP-OR-WOPR-09-0006-5  
**Organization:** American Forest Resource Council  
**Protester:** Tom Partin

**Issue Excerpt Text:**

In addition, AFRC believes the 7% allocated to Deferred Harvest Timber Management Areas also violates the O & C Act because there was at the time

of enactment of the O & C Act, or today, no known interpretation of "sustained yield" forest management that prohibits all timber management for 15 years. "When terms used in a statute are undefined, we give them their ordinary meaning." *Asgrow Seed Co. v. Winterboer*, 513 U.S. 179, 187 (1995). A 15 year prohibition of timber removal is not the ordinary meaning of sustained yield forest management.

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### *Summary*

The Deferred Harvest Timber Management Area in the PRMP is a violation of the O&C Act - a 15 year prohibition on timber removal does not fall within the meaning of sustained yield forest management.

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### *Response*

According to FLPMA, sustained yield means "the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use." In regards to timber, the term "annual sustained yield capacity" is used in the O&C Act of 1937. It is the yield that a forest can produce continuously at a given intensity of management, in other words a non-declining, even flow. While the O&C Act requires that timber be managed according to the principles of sustained yield, the Secretary of the Interior has discretion to determine how to manage the forest to provide for permanent forest production, as the O&C Act does not specify the harvest methods, rotation length, or silvicultural regimes under which these forests would be managed (43 USC 1181a; PRMP/FEIS at 1-9).

The Deferred Timber Management Area (TMA) is part of the land base managed for timber production on the basis of sustained yield, in accordance with the O&C Act. As discussed in the PRMP/FEIS, Chapter 2 at 37, the Deferred TMA, the Uneven Aged Management Timber Management Area, and the Timber Management Area are all dedicated to the permanent forest production and are managed under the principle of sustained yield. The intensity of the prescribed management within each of these areas was the basis for determining annual productive capacity of the sustained yield units, also known as the Allowable Sale Quantity. The 15-year deferral of harvest is a matter of scheduling harvest which is within the discretion of the Secretary of Interior. In addition, allocation of the Deferred TMA provides consistency with the northern spotted owl recovery plan, which responds to the need for the action.

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## *O&C Lands - Harvest Land Base*

**Issue Number:** PP-OR-WOPR-09-0006-3  
**Organization:** American Forest Resource Council  
**Protester:** Tom Partin

**Issue Excerpt Text:**

AFRC [American Forest Resource Council] commented that the Preferred Alternative in the Draft EIS violated the O & C Act because only 48% of the land suitable for timber harvest was available for sustained yield forest management, while 52% of the suitable timberlands were in land allocations prohibiting sustained yield forest management.

The PRMP makes this legal violation more severe by allocating only 26% of the suitable timberlands for true sustained yield forest management, an additional 6% for uneven aged timber management and a further 7% for potential sustained yield forest management beginning in 2023. Even if all three of these categories were considered consistent with the mandate of the O & C Act, only 39% of the suitable timberlands are available for sustained yield forest management compared to 48% in the DEIS Preferred Alternative.

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**Issue Number:** PP-OR-WOPR-09-0006-8  
**Organization:** American Forest Resource Council  
**Protester:** Tom Partin

**Issue Excerpt Text:**

The administrative withdrawal of 33,404 acres of land for "special status sensitive species" is a specific violation of the clear terms of the O & C Act. See, Final Environmental Impact Statement, p. 1-12 and Table 2-1. None of the legislative or policy provisions cited in the PRMP amends or takes precedence over the clear language of the O & C Act.

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**Issue Number:** PP-OR-WOPR-09-0156-3  
**Organization:** Association of O&C Counties  
**Protester:** Rocky McVay, Kevin Davis

**Issue Excerpt Text:**

According to Chapter 1, page 12, and Chapter 2, page 27, Table 2-1 in the EIS, 33,404 acres have been administratively withdrawn from sustained yield management to benefit "special status species," some of which are not listed under the Endangered Species Act ("ESA"). This action is implementation of a BLM policy under the Federal Lands Policy and Management Act ("FLPMA") that is not within the BLM's discretion on O&C Lands. Section 701(b) of FLPMA specifically preserves the dominance of the

O&C Act whenever there are inconsistencies between it and FLPMA "insofar as they relate to management of timber resources, and disposition of revenues from lands and resources ...." By definition, withdrawals from the timber base are in conflict with sustained yield timber management.

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**Issue Number:** PP-OR-WOPR-09-0156-7  
**Organization:** Association of O&C Counties  
**Protester:** Rocky McVay, Kevin Davis

**Issue Excerpt Text:**

Withdrawal of lands from the timber base to implement a FLPMA based policy for special status species that is in conflict with the timber management mandate on O&C lands is not permitted by the O&C Act, or FLPMA.

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**Issue Number:** PP-OR-WOPR-09-0156-8  
**Organization:** Association of O&C Counties  
**Protester:** Rocky McVay, Kevin Davis

**Issue Excerpt Text:**

Withdrawal of lands from the timber base for LSMAs is not permitted by the O&C Act and not required by the ESA.

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**Issue Number:** PP-OR-WOPR-09-0173-3  
**Organization:** Individual  
**Protester:** Margaret Goodwin

**Issue Excerpt Text:**

2. The Ninth Circuit Court confirmed in 1990 (Headwaters v. BLM) that the O&C Act mandated timber production as the primary use of the O&C lands. To comply with that mandate, at least 50% of the land should be used for timber production. (See Legal Considerations #1 in my original comments, attached.) The Proposed Resource Management Plan does not satisfy that mandate. Under the PRMP, only 32% of the O&C lands are designated for timber management, plus another 7% that's designated as deferred timber management area. That land is off limits for 15 years while a strategy is developed to deal with the encroachment of the barred owl into the spotted owl's habitat, but it's unspecified what will happen if a successful solution is not reached, or is deemed to require more time.

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**Issue Number:** PP-OR-WOPR-09-0193-1  
**Organization:** Southern Oregon Resource Alliance  
**Protester:** Jack Swift

**Issue Excerpt Text:**

SORA maintains that the PRMP is in violation of the law insofar as it withdraws 148,582 acres of timber land for the benefit of the Bureau's National Landscape Conservation System. There is no provision under the 1937 O&C Act for such utilization.

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**Issue Number:** PP-OR-WOPR-09-0193-2  
**Organization:** Southern Oregon Resource Alliance  
**Protester:** Jack Swift

**Issue Excerpt Text:**  
SORA maintains that the PRMP is in violation of the law insofar as it withdraws 566,373 acres of timber land as Late-Successional Management areas. There is no provision under the 1937 O&C Act for such utilization.

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**Issue Number:** PP-OR-WOPR-09-0193-3  
**Organization:** Southern Oregon Resource Alliance  
**Protester:** Jack Swift

**Issue Excerpt Text:**  
SORA maintains that the withdrawal of an unspecified volume of timber lands for the protection of Bureau Sensitive species is unlawful under the 1937 O&C Act. The adoption of management plans for the benefit of Bureau Sensitive species is an administrative undertaking which may not interfere with specific legislatively mandated management.

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**Issue Number:** PP-OR-WOPR-09-0193-4  
**Organization:** Southern Oregon Resource Alliance  
**Protester:** Jack Swift

**Issue Excerpt Text:**  
SORA maintains that the land utilization formula adopted in the PRMP is not in compliance with the dictates of the 1937 Act to the extent that less than 50% of the O&C Lands will be managed for timber production. Less than 50% cannot be deemed "primary" utilization.

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**Issue Number:** PP-OR-WOPR-09-0228-18  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**  
BLM has yet to provide a compelling explanation of how their new timber dominant interpretation of the

O&C Act is in harmony with their equally important legal duties under the Endangered Species Act, Clean Water Act, Federal Land Policy and Management Act, and Clean Air Act. Logging proponents are misconstruing the recent case of *Homebuilders v. Defenders* (U.S. Supreme Court, June 2007) to say that BLM does not have to follow the ESA because the O&C Act is non-discretionary. The procedural requirements (at issue in *Homebuilders*) stand in sharp contrast to the type of discretion that BLM exercises in developing resource management plans. The O&C Act does NOT create non-discretionary mandate to maximize logging. The O&C Act requires BLM to exercise discretion in finding a harmonious way to achieve multiple, sometimes conflicting objectives: permanent forest protection, recreational facilities, sustained yield, watershed protection, regulated water flow, community stability, reasonable prices, normal markets, etc... See Interior Solicitors Opinions dated October 4, 1978, August 27, 1979, and May 14, 1981. In *Seattle Audubon Society v. Lyons*, 871 F. Supp. 1291 (W.D. Wash. 1994), Judge Dwyer said BLM exercises "broad authority to manage the O&CLA lands: the BLM is steward of these lands, not merely regulator. Management under the O&CLA must look not only to annual timber production but also to protecting watersheds, contributing to economic stability, and providing recreational facilities." *Id.* at 1314. The Secretary of Interior has previously taken the position that managing BLM forests so as to avoid future ESA listings furthers the purposes of the O&C Act to provide predictable timber supply. Furthermore, the *Homebuilders* precedent could not exempt BLM from other ESA requirements such as sections 9 and 7(a)(1).

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**Issue Number:** PP-OR-WOPR-09-0228-97  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**  
ASQ Calculation is Flawed

59. BLM erred by including deferred harvest areas in the calculation of the timber base which is unwarranted and unreasonable. By including those forests in the timber base BLM is able to maintain an artificially high rate of logging on other forests.

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## **Summary**

The PRMP violates the O&C Act by withdrawing lands from the timber harvest base.

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## **Response**

There is nothing in the O&C Act that requires a certain percentage of O&C lands to be available for timber harvest. The purpose of the plan revision is to manage the BLM-administered lands for permanent forest production in conformity with the principles of sustained yield, consistent with the O&C Act. In addition, the BLM must ensure that the plan revision complies with all other applicable laws including, but not limited to, the Endangered Species Act, the Clean Water Act, and (to the extent it is not in conflict with the O&C Act) the FLPMA (PRMP/FEIS at 1-4). These legal obligations result in some lands being managed for objectives other than sustained yield timber production.

The need for the action explicitly includes coordination with the recovery plans and designated critical habitat for federally ESA-listed species (PRMP/FEIS at 1-4 to 1-6). Allocations in the PRMP, including the Late-Successional Management Area, Deferred Timber Management Area, and Riparian Management Area, are made in the PRMP, in part, to provide consistency with recovery plans and designations of critical habitat for federally ESA-listed species.

Specifically, the Late-Successional Management Area is designed to encompass northern spotted owl critical habitat and stands within the boundaries of marbled murrelet critical habitat that contain one or more primary constituent elements to avoid adverse modification of critical habitat (PRMP/FEIS at 2-24; Appendix H at 212; Appendix H at 215). The Deferred Timber Management Area will provide consistency with Recovery Action 32 in the *Final Recovery Plan for the Northern Spotted Owl*. Not providing a mechanism by which the BLM would provide consistency with the recovery plans and critical habitat designations for spotted owl and marbled murrelet would not meet the BLM's purpose and need for action. The Riparian Management Area was designed, in part, to maintain and restore water quality (to comply with the Clean Water Act) (PRMP/FEIS at 3-334 to 3-351 and 4-759 to 4-775). The RMA will also provide for conservation of federally ESA-listed fish (and thereby avoid jeopardy to federally ESA-listed species or adverse modification or destruction of critical habitat) (PRMP/FEIS at 4-779 to 4-804; Appendix J at 325 to 360).

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## ***O&C Lands - Harvest Rates and Volume***

**Issue Number:** PP-OR-WOPR-09-0007-4

**Organization:** Individual

**Protester:** Gordon Lyford

**Issue Excerpt Text:**

The O&C Lands Act requires management for permanent forest production and protecting watersheds under the principle of sustained yield, and

for other purposes. The FEIS fails to specify the sustainable yield rate that will maintain permanent forests and protect watersheds, and is therefore in violation of the O&C Act. Instead the BLM has set a logging rate for regulated tree farms, which are not permanent forests.

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**Issue Number:** PP-OR-WOPR-09-0143-1

**Organization:** Individual

**Protester:** Roger Brandt

**Issue Excerpt Text:**

The BLM supports their insubordinate argument by trying to make stakeholders believe the O&C Act requires the Agency to harvest a minimum annual volume of timber from O&C lands although there is nothing in the O&C Act that says a minimum volume must be cut. This was confirmed in *Portland Audubon Society v. Babbitt*, 998 F.2d 705 (9th Cir. 1993), in which the court found that the O&C Act did not establish a minimum volume that must be offered every year notwithstanding any other law.

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**Issue Number:** PP-OR-WOPR-09-0156-9

**Organization:** Association of O&C Counties

**Protester:** Rocky McVay, Kevin Davis

**Issue Excerpt Text:**

The statement in the EIS that the O&C Act has no minimum harvest level conflicts with the language and intent of the O&C Act.

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**Issue Number:** PP-OR-WOPR-09-0228-13

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM can't pretend that it lacks discretion to consider greater conservation of ecosystems in order to avoid future species listings, and in doing so BLM must disclose how avoiding future listings will sustain timber flow and stabilize communities and industries.

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***Summary***

The BLM is violating or misinterpreting the O&C Act regarding sustained yield and harvest rates.

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***Response***

The O&C Act requires the O&C lands capable of timber production to be managed under the principle of sustained yield and directs the Secretary of the Interior to determine annual productivity for O&C lands and offer that volume for sale on an annual basis (43 U.S.C. 1181a). This interpretation of the O&C Act has been upheld by the Ninth Circuit in *Headwaters v. BLM*, 914 F.2d 1174 (9th Cir. 1990). The ruling in *Portland Audubon Society v. Babbitt*, 998 F.2d 705 (9th Cir. 1993) did not overturn this interpretation, but merely clarified that the O&C Act did not preclude compliance with the procedures of the National Environmental Policy Act. The FEIS defines sustained yield as "...the volume of timber that a forest can produce continuously at a given intensity of management; the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources without impairment of the land" (PRMP/FEIS Glossary at 920). This definition is consistent with the definition of sustained yield provided in FLPMA 103(h) (43 U.S.C. 1702(h)).

The BLM is committed to complying with the statutory mandate in the O&C Act to offer for sale annually the declared productive capacity of the lands included in the harvest base (also referred to as the allowable sale quantity, or ASQ) (PRMP/FEIS at 2-39). The annual ASQ is approximately 502 mmbf (PRMP/FEIS at 2-38, 2-40 and 4-571). Harvest volume projections were based on the lands available for harvest within each sustained yield unit. Those lands which contribute to the Allowable Sale Quantity (ASQ) can be managed over an extended period of time to provide a sustainable non-declining level of harvest.



## *O&C Lands - Multiple Purposes*

**Issue Number:** PP-OR-WOPR-09-0008-16

**Organization:** Individual

**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

The O&C Act lays out multiple goals for O&C lands. The lands must be managed for the purpose of "protecting watersheds, regulating stream flow, . . . and providing recreational facilities." 43 U.S.C. § 1181a. Protecting watersheds and stream flow supports establishing safeguards like those embodied in the Aquatic Conservation Strategy of the Northwest Forest Plan. BLM must also manage O&C lands to protect recreational opportunities. However, recreation will be harmed by the massive clearcutting plans for western Oregon under the PRMP. With the timber dominant interpretation of the O&C Act that the BLM favors in the WOPR, the BLM is violating the O&C Act by not managing O&C lands for multiple purposes.

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**Issue Number:** PP-OR-WOPR-09-0142-2

**Organization:** Individual

**Protester:** Roger Brandt

**Issue Excerpt Text:**

The O&C Act directs the BLM to manage timber production to achieve five purposes, which includes the economic stability of communities and industries. Timber dependent industries include tourism, recreation, real estate and enterprise that is supported by quality of life values that makes a community marketable and attractive to retirees, home-based entrepreneurs, and businesses looking for a place to set up their enterprise -these are all timber dependent jobs and income. The BLM is not following the O&C Act by not managing timber to produce the Maximum output of assets that contribute to the economic stability of both timber and non-timber industries, just as the O&C Act directs the BLM to do.

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**Issue Number:** PP-OR-WOPR-09-0143-2

**Organization:** Individual

**Protester:** Roger Brandt

**Issue Excerpt Text:**

Furthermore, the BLM attempts to support their illegitimate objectives disregarding the mandates of the O&C Act by quoting the decision of the Ninth Circuit Court in *Headwaters V. BLM* (1990) as validating their assertion that the WOPR should only

serve the interest of the timber industry and no other purpose mandated in the O&C Act. This disregards the ruling of the Ninth Circuit Court, which clearly expects the management of O&C lands to achieve the purposes listed in the O&C Act.

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**Issue Number:** PP-OR-WOPR-09-0162-4

**Organization:** Dancing Sheep Farm

**Protester:** Andy Stahl

**Issue Excerpt Text:**

By failing to assess timbering's effects upon Doak Creek, WOPR also fails to ensure the protection of Doak Creek's water quality and fish habitat, as required by the O&C Act of 1937.

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**Issue Number:** PP-OR-WOPR-09-0170-2

**Organization:** Individual

**Protester:** John Donoghue

**Submission Number:** PP-OR-WOPR-09-0195

**Organization:** Individual

**Protester:** Kimberly Kittredge

**Submission Number:** PP-OR-WOPR-09-0194

**Organization:** Individual

**Protester:** Matt Trappe

**Issue Excerpt Text:**

The OCLA requires that subject lands be managed not only for timber supply, but also for "protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities." By accelerating timber harvest beyond sustainable levels, the PRMP violates the OCLA by failing to protect watersheds and streams, community stability, and recreational opportunities.

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**Issue Number:** PP-OR-WOPR-09-0206-2

**Organization:** Individual

**Protester:** Carole Gale

**Issue Excerpt Text:**

In the FEIS of the WOPR, the BLM is only pressing for destructive alternatives (1, 2, 3) that will meet timber industry goals but will fail to meet BLM's other obligations to protect clean water, recover endangered species and provide for recreation. I protest BLM's limited range of action Alternatives. BLM has failed to produce a reasonable range of alternatives and therefore cannot meet all of its legal obligations to protect clean water and wildlife habitat.

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**Issue Number:** PP-OR-WOPR-09-0206-4  
**Organization:** Individual  
**Protester:** Carole Gale

**Issue Excerpt Text:**

By the timber dominant interpretation of the O&C Act that the BLM favors in the WOPR, the BLM is violating the O&C Act by not managing O&C lands for multiple purposes.

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**Issue Number:** PP-OR-WOPR-09-0223-17  
**Organization:** Pacific Rivers Council  
**Protester:** John Kober

**Issue Excerpt Text:**

The Proposed Resource Management Plan violates the O&C Act because it will not protect watersheds and regulate streamflow. The BLM has not demonstrated that the PRMP will comply with these purposes, but instead has disregarded them as purposes of the O&C Act all together.

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**Issue Number:** PP-OR-WOPR-09-0228-22  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The FEIS (p 1-9) states that FLPMA's multiple use mandate is applicable only on lands not suitable for timber production, and the O&C Act trumps multiple use on any lands suitable for timber production. This ignores that fact that lands suitable for timber production might be well suited for watershed protection, regulating stream flow, etc. It is unreasonable that one of the many purposes of the O&C Act gets a monopoly hold on the lands that are equally well-suited to meet other valid objectives.

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**Issue Number:** PP-OR-WOPR-09-0228-30  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM insists that watershed protection completely subservient to a high level of timber supply. This is inconsistent with the plain reading of the O&C Act (as explained above) as well as BLM's past interpretation of the O&C Act in the NWFP ROD which says

"The Act does not require the Secretary to harvest all old-growth timber or all commercial timber as

rapidly as possible or according to any particular schedule.... Protection of watersheds and regulation of stream flow are explicit purposes of forest production under the O&C Lands Act. Riparian reserves, including those established on O&C lands by this decision, are designed to restore and maintain aquatic ecosystem functions. Together with other components of the aquatic conservation strategy, riparian reserves will provide substantial watershed protection benefits. Riparian reserves will also help attain and maintain water quality standards, a fundamental aspect of watershed protection. Both riparian reserves and late-successional reserves will help regulate streamflows, thus moderating peak streamflows and attendant adverse impacts to watersheds." 1994 NWFP ROD pp 49-50.).

The plain meaning of the Act reveals that watershed protection is a co-equal objective with timber supply as a product of sustained yield, not subservient to it. There is no ranking among the "purposes" of sustained yield listed in the O&C Act, i.e., "permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability..." BLM failed to consider alternative mixes of timber harvest and ecosystem services that could meet the O&C Act's multiple objectives.

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**Issue Number:** PP-OR-WOPR-09-0228-33  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM was arbitrary and capricious when it applied a narrow interpretation of SY [sustained yeild] that focuses on maximum timber supply to the exclusion of other objectives and creating a very high level of expectation of timber harvest which undermine objectives for watershed protection, regulated water flow, and community economic stability.

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**Issue Number:** PP-OR-WOPR-09-0228-6  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The WOPR driven by misinterpretation of O&C Act. BLM is creating conflict where harmony is possible. The law abhors such conflict of laws. BLM says that the O&C Act requires them to manage timber as the dominant use of O&C lands, but the O&C Act establishes multiple purposes for these lands,

including "timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities ..." (43 U.S.C. §1181a). The O&C Act clearly places timber supply on an equal footing with watershed protection, regulating water flow, and community economic stability, and recreation facilities. Sustained yield is not an end in itself but a means to meet multiple ends. The courts have already told BLM not to use overly narrow interpretations of its legal mandates in order to create artificial conflicts and avoid complying with the law. "Because there does not appear to be a clear and unavoidable conflict between statutory directives, we cannot allow the Secretary to 'utilize an excessively narrow construction of its existing statutory authorizations to avoid compliance [with NEPA] Portland Audubon Society v. Babbitt, 998 F.2d 705 (9th Cir. 1993) quoting Jones v. Gordon, 792 F.2d 821,82526 (9th Cir. 1986). The definition of sustained yield does not lead to an unavoidable conflict with other objectives, so BLM must harmonize by considering a broader set of objectives.

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**Issue Number:** PP-OR-WOPR-09-0228-7  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**  
BLM rejects reasonable alternatives based on the false premise that the O&C Act conflicts with the FLMPA. In fact, no direct conflict between the O&C Act and forest conservation has been found. The law disfavors such conflicts of law and instead favors harmonization wherever possible. Such a conflict is unlikely given the O&C Act's diverse objectives (such as watershed protection, water flow, and recreation) and especially considering (a) that the BLM lands provide habitat for many ESA listed species, and (b) hundreds of miles of 303(d)-listed streams, and (c) scientists have confirmed that forest conservation helps store carbon and mitigate global warming while logging releases carbon and exacerbates global warming. Consequently, there are

reasonable alternative land allocations required by FLPMA, ESA, CWA, such as ACECs (p A853-54), key watersheds, scenic areas, larger reserves that would help avoid future impairment of species, increased efforts to store more carbon, etc. that BLM failed to consider.

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**Issue Number:** PP-OR-WOPR-09-0233-38  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**  
BLM is wrong to determine that the only way to meet the intent of the O&C Act is through increased timber production and failing to consider a wide range of forest ecosystem services. To the extent that BLM continuous to log mature and old-growth forests they will exacerbate climate change and contributing to the root cause of forest establishment problem thus violating the "permanent forest production" mandate of the O&C Land Act.

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**Issue Number:** PP-OR-WOPR-09-0236-1  
**Organization:** Individual  
**Protester:** Jennifer Council

**Issue Excerpt Text:**  
The Oregon and California Lands Act is has been contorted without being overviewed by a court to produce this plan. The Act says lands "shall be managed...for permanent forest production". Permanent forest production is not the same thing as commercial logging. The act clarifies this further; the lands must be managed for the purpose of "protecting watersheds, regulating stream flow, ... and providing recreational facilities." This full range of purposes outlined by the act are violated by the current plan.

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**Issue Number:** PP-OR-WOPR-09-0260-5  
**Organization:** Individual  
**Protester:** Bruce Campbell

**Issue Excerpt Text:**  
since diverse multiple purposes are not met by the timber-focused PRMP in the WOPR, this violates the Oregon and California Lands Act of 1937.

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## **Summary**

The BLM is violating the O&C Act by not managing O&C lands for multiple purposes such as protecting watersheds, regulating streamflow, and providing recreational facilities.

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## ***Response***

The BLM's interpretation of the O&C Act is consistent with the plain language of the O&C Act, the legislative history of the O&C Act, and the Ninth Circuit ruling in *Headwaters v. BLM*, 914 F.2d 1174 (9<sup>th</sup> Cir. 1990) (PRMP/FEIS Appendix A at 4 to 5). As stated in Chapter 1 of the PRMP/FEIS, "the legislative history of the O&C Act and the Ninth Circuit Court ruling in *Headwaters v. BLM*, 914 F.2d1174 (9<sup>th</sup> Cir. 1990) make it clear that management of these lands for sustained yield timber forest management is expected to result in '...a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities.' It would be inconsistent with the O&C Act to treat these expected benefits as additional objectives that must be balanced against sustained yield forest management, and thereby might reduce the annual productive capacity that would be offered for sale" (PRMP/FEIS at 1-6).

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## ***Areas of Critical Environmental Concern***

### ***ACEC - Land and Water Conservation Fund***

**Issue Number:** PP-OR-WOPR-09-0003-1  
**Organization:** Western Rivers Conservancy  
**Protester:** Phil Wallin

designated as a timber management parcel. The other, the Halvorson parcel, was not shown on the map. I have attached a legal description of the two parcels.

**Issue Excerpt Text:**

two of the parcels purchased with LWCF [Land and Water Conservation Fund] funds had inadvertently been left out of the proposed ACEC designation. One parcel, the Winters parcel, has instead been

WRC would like to request that you take the opportunity during the protest review period to correct the error designating the Winters parcel as a timber management area and include both parcels as ACECs.

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## ***Summary***

Two of the parcels purchased with Land and Water Conservation Fund dollars have been left out of the proposed ACEC designation in the PRMP.

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## ***Response***

The BLM did not include the Winters parcel in the ACEC maps for the Salem District, and as a result it appears that the parcel was excluded from the Sandy River (Outstanding Natural Area (ONA)) ACEC in the PRMP/FEIS. The maps will be corrected to show the Winters parcel included as a designated ACEC in the Salem ROD.

The Halvorson Parcel was acquired through an agreement with the Western Rivers Conservancy in February 2007 after the BLM had produced the planning maps. The BLM will add language to Salem's ROD that will now include the Halvorson Parcel as part of the Sandy River ONA ACEC.

Distinct from the ACEC parcels described above, there are lands within the Sandy River

Corridor which are O&C lands and would be designated as Timber Management Areas (TMA). The FLPMA provides authority for designation of ACECs (43 U.S.C. §1712 (c)(3); see also PRMP/FEIS at 3-440). However, the O&C Act prevails over FLPMA with regard to management of timber resources on O&C lands. The special management attention required to maintain the relevant and important values conflicts with the purpose and need for managing the O&C timberlands (PRMP/FEIS at 1-11; Appendix T at 853 to 855). The BLM would not designate ACECs on O&C lands where they would be managed contrary to the O&C Act for timber resources (PRMP/FEIS at 1-11).

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## *ACEC - Federal Land Policy and Management Act*

**Issue Number:** PP-OR-WOPR-09-0204-42  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

WPOR violates FLPMA because the BLM has failed to protect areas of critical environmental concern. Specifically, the BLM has failed to protect the Low Elevation Headwaters of the McKenzie River Area, despite the fact that the BLM acknowledges that it meets the criteria for protection.

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**Issue Number:** PP-OR-WOPR-09-0204-43  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

In the FEIS, BLM considered protecting a number of ACECs in accordance with the requirements of FLPMA, and acknowledged that failing to protect these critical areas that require special management attention "would result in the eventual degradation or loss of many of those important and relevant values." FEIS at 4-854. Despite this acknowledgement, however, none of the alternatives evaluated in the FEIS considered protecting the Low Elevation Headwaters of the McKenzie River Area as an ACEC. FEIS at N-488. The FEIS explicitly acknowledges that the McKenzie River Area possesses a number of the statutory features that entitle it to ACEC protection, including historic, cultural, and scenic values; fish and wildlife values; and natural process or system values. FEIS at N-505. However, the BLM refused to consider protecting the McKenzie River Area because the BLM insists that the O&C Act, 43 U.S.C. § 1181a, requires it to manage every acre on which timber harvest is possible for timber production, notwithstanding the requirements of FLPMA.

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**Issue Number:** PP-OR-WOPR-09-0204-44  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The BLM has violated FLPMA by failing to protect the McKenzie River Area. The FLPMA makes the protection of ACECs mandatory by providing that the Secretary shall give priority to the protection of ACECs. 43 U.S.C. § 1712(c). The only justification that the BLM offers for this violation of FLPMA is that the O&C Act prevents BLM from complying with FLPMA.

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**Issue Number:** PP-OR-WOPR-09-0204-45  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FLPMA requires the BLM to protect ACECs, and the BLM admits that the Low Elevation Headwaters of the McKenzie River Area qualifies as an ACEC under the terms of the statute. Because the O&C Act does not conflict with the FLPMA's mandate to protect ACECs, the BLM is required to protect areas within the WOPR that meet the statutory criteria for protection, including the Low Elevation Headwaters of the McKenzie River Area.

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**Issue Number:** PP-OR-WOPR-09-0228-51  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM was arbitrary and capricious in rejecting ACECs based on false conflict between O&C Act and FLPMA. This problem was pervasive and needs to be addressed across the entire range of ACECs. As just one example, the PRMP rejects a proposed

ACEC protecting thousands of acres of mature forest known as the "Low Elevation Headwaters of the McKenzie River" on the Eugene District. The FEIS admits this area meets the "relevance and importance" criteria but the PRMP rejects the ACEC based on the assertion that designating the ACEC would be incompatible with the TMA land allocation. Specifically, the response to comments says: "The proposed Lower Elevation Headwaters of the McKenzie River ACEC occurs within the Timber Management Area on O&C lands under all action alternatives....The special management attention required to maintain the relevant and important values conflicts with O&C timber management." (p A-854).

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**Issue Number:** PP-OR-WOPR-09-0235-4  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

2. Reduction of ACECs is illegal.

The WOPR illegally eliminates ACECs in the Coos Bay and Roseburg BLM. The excuse that all O&C lands, even those that are of critical environmental concern, must be logged, is not valid. FLMPA requires ACECs where appropriate. The O&C Act itself allows for multiple uses on O&C lands, in spite of BLM's interpretation.

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**Issue Number:** PP-OR-WOPR-09-0235-5  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

Umpqua River Wildlife ACEC: On the Roseburg BLM district, the DEIS is proposing to eliminate the Umpqua River Wildlife ACEC of 947 acres! This ACEC includes Brads Creek, Golden Bar, Cougar Creek, Lost Creek, Marin Creek, and Woodruff Mountain. This is an incredible loss, not only for wildlife, but also for boaters on the main stem Umpqua River who use these areas camping and picnicking. These are special places for boaters because overland access is difficult. Boaters appreciate the beauty and privacy of these areas and come from all over the state to recreate here. Groups of boy scouts, collage students from Portland, and local fisherman can regularly be seen recreating in the Umpqua River Wildlife ACEC. Clearcutting

down to the riparian buffer will ruin the recreation experience, not to mention the wildlife habitat. The FEIS failed to mention any impacts to recreation or wildlife from eliminating this ACEC. Wildlife includes osprey and bald eagle nests.

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**Issue Number:** PP-OR-WOPR-09-0235-6  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

Eliminating Umpqua River Wildlife ACEC, Stouts Creek ACEC, and China Ditch ACEC is illegal without cumulative effects considerations and especially without being clear in text or maps what is being converted to a Timber Management Area.

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**Issue Number:** PP-OR-WOPR-09-0235-7  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

New ACECs should have been considered. The failure of the BLM to recognize areas that were nominated as ACECs in the course of the WOPR planning process does not meet the requirements of FLPMA. Several of the nominated ACECs met the criteria, but the BLM arbitrarily denied protection for these potential ACECs and never analyzed these areas in the FEIS. At the least, the BLM should have provided the public a list of nominated ACECs, indicated which nominated area met the ACEC criteria, and which were ultimately denied consideration, and why.

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**Issue Number:** PP-OR-WOPR-09-264-24  
**Organization:** Klamath-Siskiyou Wildlands Center  
**Protester:** Joseph Vaile

**Issue Excerpt Text:**

KS Wild is very concerned with the lack of protection afforded to existing and nominated ACECs on the Medford District in the WOPR DEIS and the BLM's fundamentalist interpretation of the O&C Act further threatens many of the ACECs that are recommended. The BLM is being arbitrary and capricious by not reversing course on protections it has offered ACECs for several decades. The WOPR does not provide discussion or clarification for the BLM's reversal of protection for ACECs.

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## **Summary**

The BLM is not protecting ACECs in accordance with the requirements of FLPMA; failure to protect these critical areas will result in the degradation or loss of important and relevant values.

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## **Response**

In many cases in the Western Oregon Plan Revision planning area, the special management attention required to maintain the relevant and important values of critical areas conflicts with the purpose and need for managing the O&C timberlands (PRMP/FEIS at 1-11; Appendix T at 853 to 855). The FLPMA provides authority for designation of ACECs (43 U.S.C. 1712(c)(3); PRMP/FEIS at 3-440). However, the O&C Act prevails over FLPMA with regard to management of timber resources on O&C lands (43 U.S.C. 1701 note). With these two laws, the BLM would not designate ACECs on O&C lands where they would be managed contrary to the O&C Act for timber resources (PRMP/FEIS at 1-11).

The ACECs that met relevance and importance criteria but were removed from further consideration because of conflicts with O&C land management are disclosed in Appendix N (PRMP/FEIS Appendix N Table N1 and N2 at 484 to 512).

For example, the Low Elevation Headwaters of the McKenzie River Potential ACEC (PACEC) falls within various land use allocations in the PRMP/FEIS, including Administratively Withdrawn (1,075 acres), Deferred Timber Management Area (60 acres), National Landscape Conservation System (325 acres), Riparian Management Area (2,345 acres), and Timber Management Area (5,965 acres). The Low Elevation Headwaters of the McKenzie River PACEC meets all criteria for designation but will not be designated under the PRMP/FEIS because the relevant and important values cannot be effectively protected when the timber management area acres (the harvest land base) are managed according to the O&C Act (PRMP/FEIS Appendix N at Table N1, N2 and 484 to 512).

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## **Climate Change**

### **Carbon Storage**

**Issue Number:** PP-OR-WOPR-09-0144-13

**Organization:** Individual

**Protester:** Hope Robertson

**Issue Excerpt Text:**

At best it provides a partial snapshot at a specific point in time but completely fails to assess the long-term impacts of increased timber harvest versus the carbon storage potential of the entire forest system (both living trees and soils).

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

BLM has failed to inventory all the carbon stored in forests and soils on western Oregon BLM lands and the value of BLM lands to store more carbon if managed appropriately to grow more mature & old-growth forest forests. For this reason, BLM has failed to inventory the resource and other values of the WOPR lands, in violation of FLPMA.

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**Issue Number:** PP-OR-WOPR-09-0204-25

**Organization:** Earthjustice

**Issue Number:** PP-OR-WOPR-09-0233-37

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

BLM must consider "potential uses of public lands."

43 U.S.C. § 1712. This requires BLM to consider using BLM lands for carbon storage and climate mitigation, arguably the highest and best use of the highly productive forest lands in western Oregon.

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***Summary***

The PRMP/FEIS is inadequate because it failed to inventory all the carbon stored in forests and soils on western Oregon BLM lands.

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***Response***

The analysis of carbon storage in the PRMP/FEIS modeled the amount of carbon stored in the forest and in harvested wood products. The analysis divided carbon storage into three categories: live trees, forest carbon other than live trees, and harvested wood (PRMP/FEIS at 3-220, 4-539 and Appendix C at 28). The carbon in these three categories was summed to calculate the total carbon stored by alternative.

Live tree carbon was derived from the OPTIONS modeling of standing tree volumes for each alternative (PRMP/FEIS at 3-220 and Appendix C at 28 to 30). These estimates were derived from detailed forest inventory data and site-specific growth and yield curves. This analysis derived live tree volumes which were converted to pounds of biomass. Then the pounds of live tree biomass were expanded to total biomass for entire trees (including branches, bark, and roots) and converted to tons of carbon.

The total non-live-tree carbon was calculated for each of the structural stage using values from the Department of Energy (2007) or Smithwick et al. (2002) (PRMP/FEIS Appendix C at 29).

Carbon stored in harvested wood depends on the amount of wood harvested and how much of the carbon in that wood is emitted through harvesting, processing, waste, disposal, and decomposition. Total volume of harvested wood for each alternative was derived from the outputs from the OPTIONS model and historical records of timber sales from 1962-2005.

The carbon storage on BLM-administered non-forest lands was calculated based on carbon values from Brown et al. (2004) for shrublands and woodlands and does not vary by alternative or over time.

There is not enough information available to be able to quantify the effects of the alternatives on soil organic carbon (Birdsey et al. 2006). As noted by EPA (2007):

“An important source of uncertainty is that there is little consensus from available data sets on the effect of land-use change and forest management activities (such as harvest) on soil [carbon] stocks ... Because soil [carbon] stocks are large, estimates need to be very precise, since even small relative changes in soil [carbon] sum to large differences when integrated over large areas” (EPA 2007: 7-11).

The BLM has determined that the carbon analysis presented in the PRMP/FEIS is based on the



best available information, is consistent with current theoretical approaches, and is sufficient for the purposes of making a reasoned choice among the alternatives.

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### *Impacts of Climate Change on PRMP*

**Issue Number:** PP-OR-WOPR-09-0228-75  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The EIS also failed to consider the fact that climate change will likely exacerbate problems with stream temperature during warmer summers, especially in bedrock dominated streams.

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**Issue Number:** PP-OR-WOPR-09-0228-78  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The EIS fails to address the prospect that climate change could significantly increase the level of uncertainty associated with levels of disturbance (and forest regeneration) in the latter half of the century and how that might influence the predicted distant future increase in old forest habitat.

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**Issue Number:** PP-OR-WOPR-09-0233-29  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The coming climate change in the Pacific Northwest will adversely affect the environment, and the forests of the Pacific Northwest in particular, yet the FEIS ignores that scientific fact and instead analyzes the impacts of the WOPR on the ground that it lacks sufficiently exact quantitative certainty on climate

change to change its quantitative analyses. This violates the BLM's legal duties.

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**Issue Number:** PP-OR-WOPR-09-0233-30  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

It is wholly unreasonable for the BLM to pretend in its quantitative models that the levels of forest production and ecosystem services will be the same under climate change conditions as under the steady-state climate conditions on which the EIS is based. In the public comments there is a great deal of respectable scientific data that shows adverse effects of global climate change such as decreased forest production, increased evaporation, increased drought stress, longer fire seasons, reduced snow pack, and reduce summer stream flow. See Cascadia Wildlands et al. public comments, January 9, 2008, at p.88-92. These effects should have been taken into account while preparing the EIS on a project involving nature exploitation and in particularly logging.

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**Issue Number:** PP-OR-WOPR-09-0233-31  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The BLM failed to analyze how global climate change would affect BLM's obligation under the Oregon & California Lands Act to maintain "permanent forest production." It refused to make this analysis because it asserted that the effects were "uncertain" and there is no reliable way that it could make any predictions that would affect its decisionmaking." Under the CEQ regulations, this is incorrect.

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### *Summary*

The BLM did not address how climate change will impact resources or the effectiveness of the alternatives in the future.

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## **Response**

The PRMP/FEIS does disclose the potential effects associated with global climate change on resources in the Pacific Northwest (PRMP/FEIS at 4-488 to 4-490). However, pursuant to 40 CFR 1500.1(b), information must be “of high quality” in order to be considered in the analysis. As explained in the FEIS, while it is not speculative that changes in conditions will likely occur due to climate change, it is speculative to attempt to predict the specific nature or magnitude of such changes. The cumulative effects of climate change on regional forest growth are uncertain, particularly because of the uncertainty of precipitation and temperature changes in the Pacific Northwest (PRMP/FEIS at 4-488 to 4-490).

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## ***Impacts of PRMP on Climate Change***

**Issue Number:** PP-OR-WOPR-09-0008-13

**Organization:** Individual

**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

There is overwhelming evidence that anthropogenic carbon emissions from fossil fuel combustion and land use (like forestry) are driving dangerous and effectively irreversible changes in our climate, which will have severe repercussions on ecosystems, water quality, agriculture, and human health and well-being. CO2 has a very long residence time in the atmosphere, and the oceans are storing large amounts of heat that will affect our climate for years to come, so we are already committed to significant warming. Thus, any additional carbon emissions clearly will exceed the carrying capacity of our air resources. The WOPR ignores this overwhelming scientific evidence on the impacts of the plan on climate change and thus does not meet the requirements of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0144-15

**Organization:** Individual

**Protester:** Hope Robertson

**Issue Excerpt Text:**

the final EIS continues to be woefully inadequate (just as the draft EIS was) in its treatment of how BLM's proposed forest management policies for Western Oregon will potentially effect CO2 emissions in the short and long-term.

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**Issue Number:** PP-OR-WOPR-09-0176-1

**Organization:** Individual

**Protester:** Kit Kirkpatrick

**Issue Excerpt Text:**

The WOPR ignores the overwhelming scientific evidence concerning the impacts of the plan on climate change, and in this way it fails to meet the requirements of the National Environmental Policy Act.

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**Issue Number:** PP-OR-WOPR-09-0202-9

**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club

**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**

There is overwhelming evidence that anthropogenic carbon emissions from fossil fuel combustion and land use (like forestry) are driving dangerous and potentially irreversible changes in our climate, which will have severe repercussions on ecosystems, water quality, agriculture, and human health and well-being. CO2 has a very long residence time in the atmosphere, and the oceans are becoming acidified due to absorption of CO2 and are storing large amounts of heat that will affect our climate for years to come. As a result, we are already committed to significant warming. Thus, any additional unnecessary carbon emissions will exceed the carrying capacity of our air resources and make reductions called for by the scientific community more difficult to achieve. The WOPR ignores this overwhelming scientific evidence on the impacts of the plan on climate change and thus does not meet the requirements of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0204-22

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The WOPR FEIS fails to sufficiently consider or analyze the effects of the WOPR on climate change. The FEIS does include a discussion of the effect of the alternatives on carbon storage, FEIS at 4-537 to 4-543, but the FEIS does not include any analysis of the effect of the alternatives on climate change. See FEIS at T-774. A discussion of carbon storage, without an accompanying discussion of the changes in climate that will be driven by different levels of carbon storage, is insufficient to meet BLM's obligations under NEPA. And while the FEIS attempts to account for the cumulative carbon storage in wood products resulting from past harvest, it fails to account for the cumulative carbon emissions to the atmosphere from past timber harvest.

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**Issue Number:** PP-OR-WOPR-09-0204-23

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

There is overwhelming evidence that anthropogenic carbon emissions from fossil fuel combustion and land use (like forestry) are driving dangerous and effectively irreversible changes in our climate, which will have severe repercussions on ecosystems, water quality, agriculture, and human health and well-being. Carbon dioxide has a very long residence time in the atmosphere, and the oceans are storing large amounts of heat that will affect our climate for years to come, so we are already committed to significant warming. Any additional carbon emissions clearly will exceed the carrying capacity of our air resources. The WOPR FEIS fails to discuss these effects in any way and thus does not meet the requirements of NEPA

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**Issue Number:** PP-OR-WOPR-09-0206-3

**Organization:** Individual

**Protester:** Carole Gale

**Issue Excerpt Text:**

The WOPR ignores this overwhelming scientific evidence on the impacts of the plan on climate change and thus does not meet the requirement of NEPA.

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**Issue Number:** PP-OR-WOPR-09-0228-72

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM failed to consider climate impacts beyond their own property boundaries. (More accurately, BLM's

excuse for not considering the effects of climate change appears to be restricted to the uncertainty of the effects of climate change on BLM lands). A broader analysis of the consequences of climate change is required not only by NEPA but also the O&C Act which does not limit its concern just to the forest, but also communities. As explained in conservationists' joint comments on the WOPR DEIS, global warming will bring great harm to natural, social, and economic systems around Oregon and around the world. Since logging will accelerate carbon emissions and make climate change worse, BLM must do all it can to avoid and mitigate those effects. "[T]he entire body of NEPA law directs federal agencies to analyze the effects of proposed actions to the extent they are reasonably foreseeable consequences of the proposed action, regardless of where those impacts might occur. Agencies must analyze indirect effects, which are caused by the action, are later in time or farther removed in distance, but are still reasonably foreseeable, .... CEQ has determined that agencies must include analysis of reasonably foreseeable transboundary effects of proposed actions in their analysis of proposed actions in the United States.... Such effects are best identified during the scoping stage, and should be analyzed to the best of the agency's ability using reasonably available information. Such analysis should be included in the EA or EIS prepared for the proposed action." July 1, 1997 Memo from CEQ Chair Kathleen McGinty to the Heads of Agencies, RE: Transboundary Environmental Impacts.  
<http://ceq.hss.doe.gov/nepa/regs/transguide.html>

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**Issue Number:** PP-OR-WOPR-09-0228-79

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM failed to disclose carbon consequences of forest management by land allocation which would reveal that LSMAs store a lot of carbon and TMAs emit a lot of carbon.

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**Issue Number:** PP-OR-WOPR-09-0233-32

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

According to 40 C.F.R § 1502.22(a), if the incomplete information relevant to reasonably foreseeable significant adverse impact is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental

impact statement. The overall cost of obtaining climate change information for WOPR is not exorbitant.

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**Issue Number:** PP-OR-WOPR-09-0233-33

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Implementation of any WOPR alternative will adversely affect the climate, because logging releases carbon from vegetation and soil. The issue of such negative effects was raised in public comment and was supported by scientific data. See Cascadia Wildlands et al. public comments, January 9, 2008, at p. 97-105. The FEIS failed to consider these arguments and data adequately.

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**Issue Number:** PP-OR-WOPR-09-0233-34

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

In the FEIS, the issues of the effect of WOPR on climate and influence of climate change on forest and other components of the environment are not addressed, even though this issue was raised by public comments in more than 40 pages. See Cascadia Wildlands et al. public comments, January 9, 2008, at p.88-133. BLM completely ignored public alternative forest management proposals that would mitigate climate change. Appendix T of FEIS

"Responses to Public Comments and Comment Letters" provides responses to public comments received during the comment period for the Draft EIS and copies of comment letters received from Congressional representatives, Indian Tribes, and federal, state, and local government agencies and presents summarized comment statements and responses by issue topic.

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**Issue Number:** PP-OR-WOPR-09-0233-36

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

In the FEIS, the BLM addresses "Carbon Storage" as the greatest influence of forest management on climate change and discusses this issue in Chapters 3 "Affected environment" and Chapter 4 "Environmental consequences." However, FEIS fails to address anything other than carbon storage influences of forest management on climate change.

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**Issue Number:** PP-OR-WOPR-09-0262-1

**Organization:** Individual

**Protester:** Melody and Jim Clarkson

**Issue Excerpt Text:**

The WOPR ignores this overwhelming scientific evidence on the impacts of the plan on climate change and thus does not meet the requirements of NEPA.

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## ***Summary***

The PRMP/FEIS is in violation of NEPA because it fails to analyze the impacts of the PRMP on climate change.

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## ***Response***

The PRMP/FEIS describes how the "global climate is becoming warmer, and there is strong evidence that this warming is resulting, at least in part, from human-caused production of greenhouse gasses, including carbon dioxide" and that, "ecosystem dynamics affect climate through the storage and release of greenhouse gasses, including carbon dioxide" (PRMP/FEIS at 4-488). The greatest influence of forest management on climate change is through changes in carbon storage, as highlighted in the final EIS (PRMP/FEIS at 3-222 and 4-543). As such, an analysis of the effects of the alternatives on carbon storage has been added to the final EIS (PRMP/FEIS at 4-537 to 4-544).

In the PRMP/FEIS, the BLM identified that "forests store carbon, which affects atmospheric concentrations of carbon dioxide" and that "forest management can provide a source of carbon dioxide (e.g., through deforestation and conversion to non-forest land uses), or it can provide a

sink for carbon dioxide (e.g., through forest growth or afforestation)” (PRMP/FEIS at 3-222). While the PRMP/FEIS recognizes that climate change is an important issue and recognizes that atmospheric carbon in the form of carbon dioxide is increasing at a rate of 3.2 to 4.1 billion tonnes of carbon per year, it also states that “it is not possible to describe precisely and accurately the total storage of carbon in forests on BLM-administered lands or in wood harvested from BLM-administered lands, because there is incomplete and unavailable information on the current inventory of carbon storage and the effect of forest management on carbon storage” (PRMP/FEIS at 3-222).

For additional information on carbon storage analysis in the Western Oregon Plan Revision, please refer to the response for “Carbon Storage.”

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## *Fire*

### *Fire and Fuels Management Plan*

**Issue Number:** PP-OR-WOPR-09-0193-5  
**Organization:** Southern Oregon Resource Alliance  
**Protester:** Jack Swift

**Issue Excerpt Text:**

SORA maintains that the PRMP provides no adequate plan for fire and fuel management on the O&C Lands. In the Medford District in southern Oregon some 423,000 acres of the BLM lands are rated high or extremely high fire hazard. This is the result of regeneration harvests prior to the NWFMP which were never subsequently thinned. Also, there is throughout the Medford District intense accumulations of ladder fuel configurations which threaten catastrophic stand replacement events. These require hand manipulation and the WOPR only proposed treatment of 11,000 acres per year. At such a rate, the fuel will be growing back faster than it is being cut.

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**Issue Number:** PP-OR-WOPR-09-0228-130  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM failed to recognize that the increase in fire hazard caused by logging will violate the O&C Act, and BLM policy. Under the PRMP fire hazard increases relative to the no action alternative in the Salem, Eugene, Coos Bay, and Medford Districts (p 4809). This is contrary to BLM's obligations to protect watersheds, water flow, permanent forest production, and community economic stability. BLM should have considered that logging not only creates dense young forests and establishes conditions ripe for severe fire, but this landscape condition also has adverse interactions with climate change which is expected to lengthen the fire seasons and increase drought stress. In other words, fire hazard is being made worse by logging, while it is also being made worse by climate change. BLM needs to consider these compound and cumulative impacts on legal objectives such as habitat, watersheds, water flow, permanent forest production, and community stability.

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## *Summary*

The PRMP does not acknowledge the potential impacts of timber harvest on fire and fuels risk and does not provide an adequate plan for fire and fuels management in the planning area.

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## *Response*

The BLM incorporates the National Fire Plan (August 2000) as a comprehensive approach to the

management of wildland fire, hazardous fuels, and ecosystem restoration and rehabilitation into the development of its policies, guidance, and strategies for all BLM lands. As a component of the National Fire Plan, the Healthy Forests Restoration Act (2003) (PRMP/FEIS at 1-10) provides direction to help reduce hazardous fuels and to restore healthy forest and rangeland conditions. The National Fire Plan and Healthy Forest Restoration Act were used to design the management objectives and directions listed in the PRMP/FEIS at 2-50 to 2-51 to reduce fire hazards to communities, decrease the risk and costs associated with large wildfires, and reduce overall resource damage from wildfires in the planning area.

Regarding a fire suppression plan, across all alternatives, the direction in the PRMP/FEIS at 2-51, 2-50, and Table 2-62 at 2-178 is to take immediate action to suppress and control wildfire using direct control in all areas except in large blocks of BLM-administered lands listed in PRMP/FEIS. In large contiguous blocks, other options such as perimeter control and prescription control could also be used (PRMP/FEIS at 2-52). In regards to fuel management, an array of fuel treatments to reduce fuel hazards are listed including tree cutting, brush cutting, pruning, reducing crown bulk density, treating activity fuels, removing biomass, and prescribed burning (PRMP/FEIS at 2-50). Tables 4-1, 4-2, and 4-3 in the PRMP/FEIS at 4-497 to 4-500 list the estimated amount of timber management and non-timber management treatments to enhance not only timber production, but to address hazardous fuels, wildlife improvements, and range enhancements.

Furthermore, PRMP/FEIS also recognizes that young even-aged plantations would be highly susceptible to stand-replacing crown fires (PRMP/FEIS at 4-805 and Summary at 24). To reduce fire severity and increase fire resiliency, the PRMP proposes uneven-age management on drier sites in the Medford District and all of the Klamath Falls Resource Area (PRMP/FEIS at 4-810). The management actions in the Uneven-Aged Timber Management Area would reduce understory vegetation with every entry, eliminating dense buildup of ladder fuels normally associated with even-aged plantations.

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### *Healthy Forests Initiative, Healthy Forests Restoration Act*

**Issue Number:** PP-OR-WOPR-09-0247-1

**Organization:** Applegate Partnership

**Protester:** Jack Shipley

**Issue Excerpt Text:**

The Healthy Forests Initiative and the Healthy Forests Restoration Act state that land management agencies must provide the time and opportunity for public collaboration, particularly when dealing with

wildfire and hazardous fuels mitigation efforts. Unfortunately, no mention of the significance of either of these documents was found in the WOPR, except for the listing of the HFI in Volume III, "References". There is also no mention of required "Community Wildfire Protection Plans" which we all know are a significant part of today's forest health/wildfire issues.

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### *Summary*

The PRMP/FEIS fails to discuss the significance of the Healthy Forests Initiative and the Healthy Forests Restoration Act, and the requirement for Community Wildfire Protection Plans.

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## ***Response***

The PRMP/FEIS recognizes the significant role the Healthy Forest Restoration Act and Community Wildfire Protection Plans play in management of BLM-administered land due to the thousands of acres in the planning area that fall within the Wildland Urban Interface (PRMP/FEIS at 3-401). The Healthy Forest Restoration Act is referenced in the PRMP/FEIS as a major law affecting the management of BLM-administered lands in the planning area (PRMP/FEIS at 1-10). Community Wildfire Protection Plans are also referenced in the PRMP/FEIS (PRMP/FEIS at 3-401 and Table 5-1 at 5-866). The intent and objectives of the Healthy Restoration Act, including expediting the administrative procedures for hazardous fuel reduction projects, are summarized in the document (PRMP/FEIS at 1-10).

The BLM uses the policies, guidance, and strategies outlined in the Healthy Forest Restoration Act as a comprehensive approach to wildland fire, hazardous fuels, and ecosystem restoration and rehabilitation management. These policies and strategies were used to develop the management objectives and directions for fire and fuels management within the PRMP/FEIS planning area (PRMP/FEIS at 2-50 to 2-52).

In addition to collaboration during the development of resource management plans, BLM policy generally encourages the use of collaborative approaches during project level planning. In the Medford District for example, partnerships (such as the Applegate Partnership) and collaborative efforts (such as the Southwest Oregon Small Diameter Collaborative, the Jackson County Integrated Fire Plan, and the Josephine County Integrated Fire Plan) have proven to be an effective means of leveraging resources among cooperating organizations and communities. The BLM will continue to use both a coordinated and collaborative approach to propose site-specific treatments in the planning area to reduce risk of catastrophic fire. The PRMP does not preclude the BLM from using the Healthy Forest Restoration Act and Community Wildfire Protection Plans, and it recognizes the role these authorities play in the development of project proposals to protect communities and resources from wildland fire.

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## ***Increased Fire Hazard***

**Issue Number:** PP-OR-WOPR-09-0233-62

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The WOPR FEIS has not considered, disclosed, or even acknowledged the scientific controversy surrounding the proposal to thin older forests to reduce risk of fire and insect infestation. While there is a general consensus that selective thinning of

younger stands may reduce these risks, there is no such consensus that thinning older stands will have the desired effect. Numerous respected studies, submitted with our DEIS comments and with this protest, demonstrating that thinning in older stands may actually increase the risk of fire, by removing shade and moisture, increasing wind speeds, reducing crown-bulk densities, and encouraging smaller trees to grow. This scientific controversy has not been disclosed or acknowledged, in violation of NEPA.

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## ***Summary***

The PRMP/FEIS failed to consider, disclose, or acknowledge the scientific controversy surrounding the proposal to thin older forests to reduce risk of fire.

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## ***Response***

The FEIS outlines the planning process, including formal scoping as part of public involvement intended to identify issues early on in the process that the EIS needs to address (PRMP/FEIS at 1-16 to 1-18). The FEIS specifically states, “An issue, in the context of an environmental impact statement, is a point of disagreement, debate, or dispute with a proposed action and is based on some anticipated environmental effect that is well-defined or topically discrete.” The FEIS further identifies the following “issue” related to wildland fire and fuels: “How should the BLM manage federal lands to reduce the risk of wildfire and integrate fire back into the ecosystem?” (PRMP/FEIS at 1-18). As required by NEPA and using the appropriate public involvement, the BLM acknowledged and disclosed that there is disagreement and debate related to fire and fuels. The FEIS addressed this issue by varying the forest management strategy designed to reduce the risk of wildfire among the alternatives and analyzed the effect of each alternative on elements of wildfire risk.

Changes made from the Draft to Proposed RMP include addition of Uneven-age Timber Management Area land use allocation in a part of the Medford District and Klamath Falls Resource Area (PRMP/FEIS at 2-24). Management objectives for Uneven-age Timber Management Area are provided in the FEIS, including an objective to “promote development of fire-resilient forests.” Further management direction states the purposes of uneven-age management, specifically identifying the purpose “to reduce stand susceptibility to natural disturbance such as fire, windstorm, disease, or insect infestation (PRMP/FEIS at 2-37 to 2-39). The scientific studies offered by the protesting parties do not address uneven-age management and, therefore, are not relevant to the proposed management action.

The protesting parties also do not offer information or studies that evaluate the BLM’s analytical approach to the PRMP/FEIS. The analytical assumptions, described in the planning criteria and in the Draft EIS, classified differing levels of fire severity, hazard, and resilience based on forest structural characteristics. Neither the protest nor any comments on the planning criteria or Draft EIS identified any flaws in this classification or proposed an alternative analytical assumption. The BLM identified all reasonable forest management strategies as described by the alternatives. Neither the protest nor any comments on the Draft EIS identified any reasonable forest strategy to reduce the risk of wildfire not analyzed in the FEIS. The BLM analyzed the effect of these alternatives related to fire hazard, severity, and resilience, looking at the differential effects. Neither the protest nor any comments on the planning criteria or Draft EIS identified any flaws in this analytical methodology or proposed an alternate methodology. The BLM then built analytical conclusions based on the forest management strategies and their identified effects. The BLM did not come to conclusions based on presumed “scientific controversy” of the result of thinning on a forest stand, but rather analyzed what kind of stand resulted from a variety of management actions. This approach was consistently used in both the Draft and Proposed RMPs. The protesting party does not provide information identifying any “scientific controversy”



relevant to the BLM's methodology of using stand characteristics for assessing levels of fire hazard. The BLM did not equate the use of thinning treatments with reduced fire hazard. Thinning is a prescription used for a variety of purposes, not just for reducing fuel loads. Within the Uneven-aged Timber Management Area, thinning would be applied to all age stands for the objectives of producing timber and increasing fire resilience. In all other land use allocations, the BLM expects that thinning of older stands would seldom, if ever, be done.

The purpose and need of the PRMP states that BLM-administered lands are to be managed for permanent forest production in conformity with the principles of sustained yield, consistent with the O&C Act (PRMP/FEIS Summary at 2). Based on the O&C Act, management of timber is the dominant use of the O&C lands in western Oregon (PRMP/FEIS at 1-10) and is the basis for management objectives including those land use allocations in which thinning would be used in older forests. The impacts of different harvest regimes (including thinning both younger and older stands) on fire and fuels management were analyzed in the FEIS (PRMP/FEIS at 4-805 to 4-812). This analysis was based on stand characteristics that would develop and not on whether or not thinning treatments had been applied. If due to thinning an older stand would no longer have the characteristics that would result in a lower fire hazard, this would be considered in the analysis. The BLM made no presumption that because a stand had been thinned, its fire hazard would be low.

The FEIS contains an estimate of first decade harvest acres by age group on both the harvest and non-harvest land base (PRMP/FEIS at 4-590 to 4-594). Under the No Action Alternative, Alternative 1, and Alternative 2, the BLM proposes 1,000 acres, 500 acres, and 200 acres of thinning, respectively. Regeneration harvest is the primary harvest method under the No Action Alternative, Alternative 1, and Alternative 2. In comparison, there would be 144,600 acres of thinning under Alternative 3, and 44,800 acres of thinning under the PRMP in stands 80 years and older during the first decade. The Uneven-age Management Area and the Eastside Forest Management Area, in which thinning and selective harvest is allowed in all age classes, was designed with the objective to achieve continuous timber production that could be sustained through a balance of growth and harvest and to promote fire resiliency (PRMP/FEIS at 2-36). Management direction for both areas state that older forest stands would retain an overstory component to provide shade, reduce wind speed, and promote overall fire resiliency in the stands (PRMP/FEIS at 2-36 and 2-38).

Regarding the PRMP proposal to thin older stands and any subsequent effects on fire severity, hazard, and resiliency, the PRMP did analyze the overall effects of the different alternatives in regard to fire and fuel hazards including the connection between thinning of older stands and corresponding impacts on fire and fuels (PRMP/FEIS at 4-805 to 4-812; Table 4-91 at 4-806; Table 4-92 at 4-807). The analysis is based on the best available information and is consistent with current theoretical approaches. The purpose of thinning in older stands includes the objective of decreasing the risk of high severity wildfires by reducing the presence of ladder fuels that typically promote large crown fires. In addition, thinning or selective harvest of older stands, particularly under an uneven-aged management prescription can meet multiple-resource objectives including continuous forest production, fuel hazard reduction, and wildlife habitat.

The BLM has determined that the PRMP/FEIS did recognize and analyze the effects of thinning older forests and the corresponding effect to fire risk and severity. Specific actions will be

analyzed and prescribed under subsequent environmental analyses. As required by NEPA, the public will be offered the opportunity to participate in the NEPA process for these specific actions. Differences among the alternatives in management of fire risk was analyzed using available scientific information and modeling to address effects associated with thinning to promote overall fire resiliency in specific fire regimes (PRMP/FEIS at 4-805 to 4-812).

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### *Rural Interface Areas*

**Issue Number:** PP-OR-WOPR-09-0235-28

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

The current RMPs contain "Rural Interface Areas", which have been eliminated from even the no-action alternative of the EIS, without disclosure or explanation.

**Issue Excerpt Text:**

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### *Summary*

The BLM does not explain what happened to the 1995 RMP's Rural Interface Areas.

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### *Response*

Rural Interface Areas are an administrative designation in the current 1995 RMPs. There is no policy or legal requirement to designate Rural Interface Areas, and the BLM chose not to carry forward this detail in describing the No Action and all action alternatives in the PRMP/FEIS.

Should the No Action Alternative be selected, the current RMPs as written would remain in effect, thus retaining the Rural Interface Areas.

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### *Fish, Wildlife, Plants, Special Status Species*

#### *Endangered Species Act - Section 7 Consultation*

**Issue Number:** PP-OR-WOPR-09-0008-17

**Organization:** Individual

**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

BLM FAILED TO COMPLY WITH THE  
ENDANGERED SPECIES ACT

The BLM did not consult under section 7 of the Endangered Species Act with either the U.S. Fish and Wildlife Service or the National Marine Fisheries Service.

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**Issue Number:** PP-OR-WOPR-09-0162-1

**Organization:** Dancing Sheep Farm

**Protester:** Andy Stahl

**Issue Excerpt Text:**

Before BLM adopts WOPR, it must first consult with the U.S. Fish and Wildlife Service regarding the effects its forest management plan will have on the northern spotted owl. BLM has failed to do so. By not following the ESA's required consultation procedure, BLM has failed to conserve the threatened northern spotted owl, as required by the ESA.

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**Issue Number:** PP-OR-WOPR-09-0166-1

**Organization:** Individual

**Protester:** Gloria Wiemann

**Issue Excerpt Text:**

BLM failed to comply with the ESA by failing to

consult under section 7 of the ESA with either the U.S.FWS or the NMFS.

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**Issue Number:** PP-OR-WOPR-09-0192-6  
**Organization:** Forest Service Employees for Environmental Ethics  
**Protester:** Andy Stahl

**Issue Excerpt Text:**

BLM also failed to consult with FWS and NOAA-Fisheries regarding the effects aerial fire retardant use will have on threatened and endangered species, as required by the ESA. FWS and NOAA-Fisheries have determined that aerial fire retardant jeopardizes the continued survival of dozens of animal and plant species, including several found on BLM's land, e.g., coastal coho. See NOAA-Fisheries Bi-Op at <http://www.fseec.org/lawsuits/retardant-NMFSbio.pdf> and FWS Bi-Op at <http://www.fseec.org/lawsuits/rctardant-FWSbio.pdf>. BLM's failure to consult with both regulatory agencies regarding aerial fire retardant use violates the ESA.

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**Issue Number:** PP-OR-WOPR-09-0202-11  
**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club  
**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**

BLM FAILED TO COMPLY WITH THE ENDANGERED SPECIES ACT

The BLM did not consult under Section 7 of the Endangered Species Act with the U.S. Fish and Wildlife Service as required by law.

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**Issue Number:** PP-OR-WOPR-09-0204-1  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

BLM has stated that it will not consult on WOPR. FEIS at 19-20. "No effects on listed species and their designated critical habitat would take place until future actions are undertaken in accordance with the plans, and additional project-level planning and decision-making would be required before such actions could proceed." Id. at 19; see also id. at 870-71. That position is legally incorrect. In fact, BLM itself admitted the requirement to consult in the draft EIS, stating that "the revision of the Resource Management Plans with management action for western Oregon BLM's resource programs constitutes a federal action that is subject to Endangered Species Act consultation." DEIS at 829 (emphasis added). As

outlined above, BLM must consult with FWS and NMFS on the effect of WOPR on threatened and endangered species; BLM's alternative position that consultation on site-specific management decisions will occur in the future does not relieve it of its duty to "insure" that this action - the wholesale revision of the Resource Management Plans - "is not likely to jeopardize" threatened and endangered species. 16 U.S.C. § 1536(a)(2). A failure to consult on this action that "may affect" listed species violates the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0207-21  
**Organization:** National Center for Conservation Science and Policy  
**Protester:** Richard Nauman

**Issue Excerpt Text:**

The BLM has failed to conduct section 7 consultation as required by the Endangered Species Act for Northern Spotted Owl, Marbled Murrelet, Salmon, Steelhead and other ESA listed species. BLM has indicated that it will not prepare a Biological Assessment or conduct section 7 consultation for species listed under the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0220-1  
**Organization:** Individual  
**Protester:** Jack Neff

**Submission Number:** PP-OR-WOPR-09-0250  
**Organization:** Individual  
**Protester:** Charles Crittenden

**Submission Number:** PP-OR-WOPR-09-0250  
**Organization:** Individual  
**Protester:** Robin Gilbert

**Submission Number:** PP-OR-WOPR-09-0250  
**Organization:** Individual  
**Protester:** Eugene Hernandez

**Submission Number:** PP-OR-WOPR-09-0222  
**Organization:** Individual  
**Protester:** John Jay Ulloth

**Submission Number:** PP-OR-WOPR-09-0221  
**Organization:** Individual  
**Protester:** Hannah Wear

**Issue Excerpt Text:**

All of the alternatives violate the Endangered Species Act of 1973, Section 7(a)(2) which "Prohibits the BLM from any action that would 'result in the destruction or adverse modification' of designated critical habitat" 50 CFR Sec. 402.02.

**Issue Number:** PP-OR-WOPR-09-0223-1  
**Organization:** Pacific Rivers Council  
**Protester:** John Kober

**Issue Excerpt Text:**

BLM's interpretations of its obligations under the ESA are inconsistent with the case law and the statutory language itself.

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**Issue Number:** PP-OR-WOPR-09-0223-2  
**Organization:** Pacific Rivers Council  
**Protester:** John Kober

**Issue Excerpt Text:**

Adoption of the PRMP would violate the ESA because BLM has not consulted under ESA section 7(a)(2) with FWS or NMFS

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**Issue Number:** PP-OR-WOPR-09-0228-135  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM's violated the Endangered Species Act by refusing to consult with USFWS and NMFS on the effects of the WOPR on ESA-listed species. Consultation is not just required for project-level activities, but also plan-level actions. This is well established in the law and practice of ESA consultation. BLM is trying to revise the law, when it's duty is to implement the law. BLM arbitrarily and capriciously rushing to sign the WOPR before they have completed all the necessary steps.

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**Issue Number:** PP-OR-WOPR-09-0233-18  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The WOPR violates the ESA because the BLM has failed to consult with the FWS and NMFS under section 7 of the Endangered Species Act. Under Section 7 of the ESA, federal agencies must ensure that any action they authorize, fund, or carry out will not "jeopardize the continued existence of listed species or "result in the destruction or adverse modification" of designated critical habitat by engaging in formal consultations with the appropriate consulting agency (either the FWS or the National Marine Fisheries Service (NMFS)). 16 U.S.C. § 1536(a)(2). This requirement is unambiguous. See TVA v. Hill, 437 U.S. 153 (explaining that "[o]ne would be hard pressed to find a statutory provision whose terms were any plainer than § 7 of the [ESA]"). If the agency determines that its federal

action "may affect" listed species or critical habitat, then it must engage in consultation. 50 C.F.R. 402.2, 402.13-14. The consultation process concludes with the consulting agency issuing a biological opinion. See generally Gifford Pinchot Task Force, 378 F.3d at 1063 (explaining the "consultation" process under the ESA). Federal agencies must also proactively review their programs and utilize their authority to carry out programs for the conservation of threatened and endangered species. 16 U.S.C. § 1536(a)(1).

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**Issue Number:** PP-OR-WOPR-09-0233-2  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The BLM has admittedly failed to engage in the necessary consultation with either the National Marine Fisheries Service or the Fish and Wildlife Service pursuant to the ESA.

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**Issue Number:** PP-OR-WOPR-09-0192-1  
**Organization:** Forest Service Employees for Environmental Ethics  
**Protester:** Andy Stahl

**Issue Excerpt Text:**

BLM's determination that WOPR has "no effect" upon threatened and endangered species is irrational and violates the Endangered Species Act ("ESA").

In FSEEE's comments, we pointed out that BLM "must consult. . . to ensure that the federal action is not likely to jeopardize 'the continued existence of' an endangered or threatened species and that the federal action will not result in the 'destruction or adverse modification' of the designated critical habitat of the listed species. 16 U.S.C. section 1536(a)(2)." Comments at 6. We hereby protest BLM's decision that WOPR has "no effect" upon threatened or endangered species and, thus, BLM's failure to formally consult with the U.S. Fish and Wildlife Service ("FWS") and National Marine Fisheries Service ("NMFS") regarding WOPR. WOPR FEIS at 870.

WOPR is a new forest plan that "necessarily drive[s] the location and volume decisions which eventually culminate in a particular sale site being offered at auction." Portland Audubon Soc'y v. Babbitt, 998 F.2d 705, 708 (9th Cir. Or. 1993); Lane County Audubon Soc'y v. Jamison, 958 F.2d 290, 294 (9th Cir. 1992) (BLM must consult on multi-year logging plan). Thus BLM's claim that "[n]o effects on listed species and their designated critical habitat would take place until future actions are undertaken in accordance with the plans, and additional project-

level planning and decision-making would be required before such actions could proceed," is wrong

as a matter of law. WOPR FEIS at 870-71.

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### ***Summary***

The BLM failed to comply with the Endangered Species Act because it did not consult under Section 7 of the Endangered Species Act. The BLM's determination that Western Oregon Plan Revision has "no effect" upon threatened and endangered species is irrational and violates the Endangered Species Act.

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### ***Response***

The BLM has completed the plan revisions in full compliance with all applicable laws, including the ESA. The PRMP/FEIS includes a description of the BLM's compliance with Section 7 of the ESA (PRMP/FEIS at 5-869 to 5-871).

Section 7(a)(2) of the ESA requires Federal agencies to ensure that their proposed actions will not be "likely to jeopardize the continued existence of any [listed] species or result in the destruction or adverse modification of the critical habitat of such species" (16 U.S.C. 1336(a)(2)). However, not all proposed actions of Federal agencies are subject to the consultation requirement. The Section 7 regulations state that consultation is required only when a Federal agency determines that its proposed action "may affect listed species or critical habitat" (50 CFR 401.14(a)).

In determining whether a proposed action "may affect" a listed species, or, conversely, whether there will be "no effect," a Federal agency must determine: what activities are encompassed by its proposed action, what the effects of those activities are likely to be on the environment, and whether those effects will "pose any effect" on a listed species or critical habitat. Only those proposed actions that "may affect" a listed species or critical habitat are subject to the ESA's Section 7 consultation requirements.

Consistent with Section 7 of the ESA, when an action agency determines that a Federal action will have no effect on listed species or critical habitat, the agency will make a "no effect" determination. In that case, the ESA regulations do not require concurrence from the US Fish and Wildlife Service and the National Marine Fisheries Service (Services), and the agency's obligations under Section 7(a)(2) for that action are complete.

Here, the BLM began cooperative consultation under the ESA in 2005 when the Services received cooperating agency status for the development of the EIS (PRMP/FEIS at 5-869). Through coordination efforts, the BLM and the Services met and communicated regularly and often. The development of the PRMP has been greatly influenced by these efforts, and the PRMP includes modifications made to the preferred alternative in the draft RMP based on this cooperation. In addition, the BLM and the Services cooperated in the development of draft and final recovery plans and proposed and final designations of critical habitat for certain listed species within the planning area.

In accordance with Section 7, the BLM analyzed whether the adoption of the PRMP “may affect” listed species or critical habitat (PRMP/FEIS at 1-19 to 1-20 and 5-869 to 5-871) and concluded that the adoption of the PRMP would have “no effect” cognizable under the ESA.

It is clear that the adoption of the PRMP will by itself have no “direct effects” on listed species or critical habitat. This is because the PRMP will be implemented only through the approval of future proposed projects and activities consistent with the plan’s management direction and because there are numerous steps that must occur before any on-the-ground activities can actually occur. The PRMP does not identify the timing, place, or design of any such future site-specific projects that would occur within the planning area. Nor does the PRMP create any legal right that would allow or authorize ground-disturbing activities without further agency decisionmaking and compliance with applicable statutes, including the ESA. This is consistent with the purpose of a land use plan as described in FLPMA and the BLM’s planning regulations (i.e., they are documents that are a preliminary step in the overall process of managing public lands and are designed to guide future management decisions, but do not by themselves authorize any on-the-ground activities). The WOPR therefore provides planning direction that will guide the BLM as it designs future projects. As the BLM proposes such future actions, those actions would undergo project-level consultation under Section 7(a)(2) of the ESA, either formally or informally, as appropriate. Such project-level consultations would provide sufficiently detailed information to allow decisions about what actions would take place on the ground.

The BLM then considered if approval of the PRMP would have any “indirect effects” on listed species or critical habitat. It is reasonable to expect that some future actions that may affect listed species or critical habitat will be taken in conformity with the WOPR’s management direction. The BLM acknowledges that it intends to develop and carry out a program of work in the future that is consistent with the management guidance described in the PRMP. Under the ESA regulations, however, before the Services treat the effects of any future actions as “indirect effects,” the agency must find that such effects will be “caused by” the adoption of the WOPR and “reasonably certain to occur.”

It is important to recognize that the ESA’s “reasonably certain to occur” standard is a different and stricter standard than the “reasonably foreseeable” standard under NEPA. In the preamble to the ESA regulations, the Services explained that “reasonably certain to occur” requires “more than a mere possibility that the action may proceed” and that agencies should “bear[ ] in mind the economic, administrative, or legal hurdles which remain to be cleared” before the action may occur (51 *Fed. Reg.* 19,926, 19,933 (June 3, 1986)). The ESA Section 7 Handbook provides additional illustration of the exacting nature of determining whether the effect of an action is “reasonably certain to occur.” The Services explain in the discussion of cumulative effects that:

Indication of “reasonably certain to occur” may include but are not limited to: approval of the action by State, Tribal, or local agencies, or governments (e.g., permits, grants); indications by the state and local agencies or governments that granting authority for the action is imminent, project sponsors assurance the action will proceed; obligation of venture capital; or the initiation of contracts.

ESA Section 7 Handbook, at 4-30. This is further explained in a 2003 Joint Agreement among the BLM, Forest Service, and the Services, which states:

“Reasonably certain to occur” requires existence of clear and convincing information establishing that an effect to the species or its habitat that will be caused by the proposed action is reasonably certain to occur. This is a rigorous standard; it is not based on speculation or the mere possibility that effects to the species may occur. Nor is this a foreseeability standard as is commonly used in NEPA analysis. If no such information exists, or is speculative or not credible, then that effect is not reasonably certain to occur and should be disregarded. In no event should a conclusion be reached that some effect is reasonably certain to occur absent clear and convincing information to support that finding in the record.

Based on the meaning of “reasonably certain to occur,” the BLM determined that its adoption of the WOPR would not result in any indirect effects and, therefore, a “no effect” determination was appropriate. As noted above, the PRMP neither identifies nor authorizes any site-specific actions that will occur in the future. Therefore, the BLM does not have sufficient information about the scope and extent of the projects that it will carry out in the future in accordance with the PRMP. Budget appropriations, as well as project proposal, design, and NEPA analysis are required before future actions can be implemented. Potential economic, administrative, and/or legal hurdles would require resolution before actions implementing the PRMP could occur. The timing, size, location, and design of future actions are too uncertain and wildly variable for the BLM or the Services to feasibly conduct an assessment of the effects of future actions that would allow for any meaningful determination of effects, the level of potential “take” of a listed species, or changes to the environmental baseline. Given the number of steps that must occur between adoption of the PRMP and implementation of any future site-specific actions, any effects of these actions cannot meet the “reasonably certain to occur” threshold at this time and level of the decision process.

The BLM will consult on implementing projects when they are actually proposed and when sufficient information is available at the appropriate scale to definitely demonstrate effects will be “caused by” the action are “reasonably certain to occur” when carried out because those effects have a defined linkage with the action subject to consultation. At the project scale, there will be a sufficient level of information to conduct an analysis to conclude with reasonable certainty what effects will occur and whether a biological opinion will be necessary. Through this project-level consultation the BLM will ensure that future actions taken to carry out the PRMP’s management guidance will not jeopardize the continued existence of a listed species or adversely modify critical habitat. This process is explicitly identified as appropriate in the Services’ Consultation Handbook, Section 5.1.

In sum, the BLM has complied with ESA Section 7 and explained how the BLM action of adopting the revised Western Oregon Plans would not have an effect that would require consultation (PRMP/FEIS at 1-19 to 1-20 and 5-869 to 5-871). The BLM has complied with the requirements of the ESA under Section 7 to ensure that agency actions will not likely jeopardize a listed species or adversely modify its critical habitat.

## *Fish and Wildlife 2000*

**Issue Number:** PP-OR-WOPR-09-0228-15

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

### **Issue Excerpt Text:**

Failure to assume broader responsibility for conservation fish & wildlife is inconsistent with other BLM policies. In 1992 the Oregon State Office of the BLM published "Fish and Wildlife 2000: A Vision For The Future." Among the objectives stated in the document is: "Protect the full range of genetic diversity for plants and animals on public land ecosystems (e.g., old growth forest, wetlands, riparian, and native sagebrush steppe) and on other

unique habitat such as cliffs, talus, caves, meadows, lakes, headwaters, playas, lithosols, ash deposits, and serpentine soils. This includes not only the most obvious vegetation types, but also key habitat components such as snags, dead or down woody material, light, moisture, soil structure, and processes such as fire, flooding, and migration." OR/WA BLM, F&W 2000 page 40 (emphasis added). The tenets of this "policy tier" document were derived from a national BLM Fish and Wildlife 2000 signed by the national Director of the BLM in May 1987. OR/WA BLM F&W 2000 page 1. RMPs are to allocate resources and select appropriate uses of BLM land "based on direction from the policy tier." OR/WA BLM, F&W 2000 page 3.

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### ***Summary***

The PRMP/FEIS is inconsistent with BLM policy outlined in "Fish and Wildlife 2000: A Vision For The Future."

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### ***Response***

The BLM's Fish and Wildlife 2000 Plan describes the relationship between BLM policy and BLM resource management plans, in that it says the Fish and Wildlife 2000 Plan takes precedence over resource management plans (F&W 2000 Plan at 3). However, the Fish and Wildlife 2000 Plan was promulgated pursuant to FLPMA which contains a savings clause that clarifies that in the event of a conflict with or inconsistency between FLPMA and the 1937 Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act (O&C Act). Insofar as they relate to management of timber resources and disposition of revenues from lands and resources, the O&C act will supersede the FLPMA. Therefore, any policies implementing the FLPMA, like the Fish and Wildlife 2000 Plan, will not apply to O&C lands if the policies conflict with requirements of the O&C Act.

For those lands within the PRMP/FEIS planning area managed under the statutory requirements of the FLPMA, the Fish and Wildlife 2000 Plan would apply as part of the multiple-use management objectives (PRMP/FEIS at 1-12). However, most of the BLM lands in the planning area must be managed under the statutory requirements of the O&C Act (PRMP/FEIS at 1-8). For these lands, where management under the FLPMA, including sections of the Fish and Wildlife 2000 Plan, conflict with the requirements of the O&C Act, they will not apply.

Nevertheless, the PRMP does incorporate certain components of the Fish and Wildlife 2000 Plan that do not conflict with the mandates of the O&C Act. Specifically, the PRMP management



direction allows for management of riparian/fisheries habitat, special status species, and special habitats that do not conflict with the O&C Act (PRMP/FEIS at 2-24 to 2-71).

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### *Habitat Conservation Plans*

**Issue Number:** PP-OR-WOPR-09-0233-16  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The WOPR FEIS also fails to account for other contemporaneous landscape-level activities in western Oregon that may have a cumulatively significant impact on the environment. For example, the WOPR FEIS does not discuss the impacts of the proposed revision of the Elliot State Forest's HCP.

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**Issue Number:** PP-OR-WOPR-09-0235-18  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The BLM failed consider the impacts to Habitat Conservation Plans (HCPs) on private and state lands from reducing reserves on federal lands in all action alternatives of the DEIS. In Oregon, two current HCPs depend on LSRs, the 1995 Weyerhaeuser's Millicoma Tree Farm HCP covering 209,000 acres west of Roseburg, and the 1995 Elliott State Forest HCP covering 93,282 acres between Reedsport and Coos Bay. Both these HCPs currently cover only the Northern Spotted Owl. A third HCP is the 2008 draft HCP for the Elliott state forest that will replace their 1995 spotted owl HCP and add marbled murrelets.

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**Issue Number:** PP-OR-WOPR-09-0235-19  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

In the Elliott State Forest's 1995, 60-year HCP for northern spotted owls, the United States Fish and Wildlife assumed:

"Large amounts of the federal lands near the Elliott are designated as late successional reserves. These reserves will be managed to protect and enhance habitat for late successional and old growth-related species, including the spotted owl. Limited stand management will be permitted, to maintain and protect late successional forest ecosystems."

"Late successional reserves would protect habitat for species dependent on these forests, including spotted

owls and marbled murre lets. Some silvicultural and salvage activities would be allowed in parts of these reserves, to assist in the development and maintenance of old growth characteristics."

The BLM failed to consider how a change in the level of reserve protections would affect these assumptions in the Elliott's 1995 HCP. Alternative 2 and 3 remove the LSRs to the northeast and south of the Elliott, and convert them to Timber Management Areas. If the HCP assumptions are no longer true, the WOPR EIS must consider the impacts to the HCP.

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**Issue Number:** PP-OR-WOPR-09-0235-20  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

LSR R0265 is especially important to the Elliott HCP: "The Elliott State Forest and Late Successional Reserve R0265, immediately north of the Elliott, provide a critical link within the Oregon Coast Range Province, connecting populations north and south of State Highway 38.... Regrowth of forests in Coast Range LSRs, and hence, demographic contribution, will not begin to occur for several decades. In the meantime, contributions to the provincial owl population by the Elliott will be very beneficial. Populations within the Klamath and West Cascades Provinces are more stable, and restocking of coastal LSRs will be enhanced by immigration from these. It is especially important to maintain dispersal linkages, such as the Elliott, between LSRs and potential source populations in the Klamath and West Cascades and other areas of the Coast Range Province to allow restocking of reserves."

The BLM failed to not only consider the importance of the LSRs to the Elliott State Forest HCP, but also the importance of LSR R0265 to the entire Coast Range Province, as detailed above. LSR 0265 consists of Coos Bay BLM lands (as well as some Siuslaw National Forest lands).

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**Issue Number:** PP-OR-WOPR-09-0235-21  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The Elliott HCP also says: Effective 1995, Weyerhaeuser Corporation has entered into an HCP with the USFWS to manage its 209,000 acre Millicoma Tree Farm, adjacent to the Elliott, as habitat conducive for dispersal of spotted owls....The Millicoma Tree Farm and the Elliott State Forest form the major linkage between three LSRs that will be critical in facilitating intra-and inter-provincial movement, and restocking of suitable, potentially vacant, habitat that will be developing in the LSRs."

All three of those LSRs include BLM lands, and all three are being converted to Timber Management Areas under the preferred alternative. The BLM failed to consider what will happen to this major linkage if the LSRs are eliminated and reduced, as well as consider that the Elliott and Weyerhaeuser Millicoma Tree Farm will both have to re-negotiate their HCPs to take more of the burden for protecting murrelets and owls.

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**Issue Number:** PP-OR-WOPR-09-0235-23

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

Under the WOPR DEIS, all of the BLM ownership to the south of the tree farm, is losing their LSR protections, completely skewing the Millicoma HCP assumptions. If those LSRs are removed, as proposed the DEIS, the Weyerhaeuser Millicoma Tree Farm HCP will have to be renegotiated. The DEIS should have disclosed this and considered the HCPs in cumulative effects.

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**Issue Number:** PP-OR-WOPR-09-0235-24

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

If the BLM removes the LSRs in the vicinity of the Elliott State Forest and the Millicoma Tree Farm, these Habit Conservation Plans will need to be renegotiated. The EIS should have disclosed and considered this impact to private and state lands.

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**Issue Number:** PP-OR-WOPR-09-0235-25

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

Scientists developing the Millicoma HCP (next to Roseburg and Coos Bay BLM LSRS) found: "As of 1992... roughly half of the known owls (47%) were found south of State Highway 38 in the Southern one-quarter of the [Oregon Coast Range] province... The higher density of owls in the southern portion of the province was attributed to the greater amount of federal land with suitable spotted owl habitat south of Highway 38." The Recovery Team considered the most severe threats in the Coast Range province to be low and declining populations; little nesting, roosting, and foraging habitat; poor distribution of the remaining owls and habitat, isolation of the province from other populations of spotted owls, and high levels of predators.

Nothing has improved since 1992. Weyerhaeuser has cut some of their old-growth under the HCP, and the latest Owl Survey on the Elliott (2003) found barred owls moving in. Removing the LSRs these HCPs rely on could have dramatic effects in the functioning of the HCPs. The BLM failed to consider this impact in the WOPR FEIS.

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***Summary***

The BLM failed to consider the impacts to Habitat Conservation Plans (HCPs) on private and State lands from reducing reserves on Federal lands in all action alternatives.

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***Response***

The PRMP/FEIS did not specifically address the effects to HCPs on private and State lands, however, the 2008 Final Northern Spotted Owl (NSO) Recovery Plan evaluated the contribution of Habitat Conservation Plans towards the recovery of the northern spotted owl (2008 NSO Recovery Plan at 14). Specifically, the Recovery Plan recognized that some existing management activities, such as the formulation of HCPs, are compatible with spotted owl conservation and the Recovery Plan incorporated these activities in Conservation Support Areas (CSAs). These CSAs are non-Federal areas between or adjacent to Managed Owl Conservation

Areas (MOCAs) where habitat contributions by private and State lands are expected to support the MOCA network and the dry-forest landscape management approach (2008 NSO Recovery Plan at 14). These non-Federal lands are recognized as being potentially helpful in achieving recovery plan goals, but they were not considered essential to the conservation of the species.

Recovery Action 18 in the NSO Recovery Plan identified three mapped and two unmapped CSAs in Oregon to provide a mix of demographic or dispersal support (2008 NSO Recovery Plan at 28). The Elliott State Forest and the Millicoma Tree Farm HCPs are not within any of the five CSAs identified for Oregon (2008 NSO Recovery Plan at 91 and 94). The PRMP is consistent with the Recovery Plan for the Northern Spotted Owl and would result in relatively little change in management direction to the BLM-administered lands near the Elliott State Forest (PRMP/FEIS at 4-644 to 4-683).

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### *Impacts to Terrestrial Species from Riparian Management Areas*

**Issue Number:** PP-OR-WOPR-09-0223-16  
**Organization:** Pacific Rivers Council  
**Protester:** John Kober

**Issue Excerpt Text:**

The BLM also suggests in the FEIS that it may be protecting habitat for listed species "to further the purposes of the Endangered Species Act." FEIS at Vol. IV, 767, beyond just preventing jeopardy or adverse modification of critical habitat, and that such an action is not prohibited by Headwaters. Yet the BLM does not explain why it has not considered an action alternative that maintains or increases the aquatic protections of the NWFP to further the ESA's purposes.

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**Issue Number:** PP-OR-WOPR-09-0228-152  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The EIS fails to disclose the adverse impacts on terrestrial species due to the reduction in protection of riparian reserves.

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**Issue Number:** PP-OR-WOPR-09-0228-90  
**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

The FEIS fails to adequately disclose the value of wide riparian reserves in terms of dispersal for spotted owls and many other species, and fails to disclose the degradation of owl dispersal function due to the elimination of "full-SAT" stream protection

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### *Summary*

The FEIS fails to disclose the impacts to terrestrial species, including the northern spotted owl and its dispersal habitat, from reductions in riparian management area widths.

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### *Response*

The environmental impact analysis in the PRMP/FEIS for wildlife species focuses on individual species of concern or assemblages of species, such as special status species or land birds. The effects to the species are described in terms of the amount of desired habitat for the species and do not differentiate between spatial arrangements (e.g., habitat contributions of upland areas vs. Riparian Management Areas).

The PRMP/FEIS however does address the effects to species dependent upon riparian habitat. The effects of the alternatives on riparian dependant special status species are addressed in the PRMP/FEIS at 4-749 to 4-750. Several research papers cited in the FEIS reveal that widths beyond one-site potential tree would add little benefit for lotic and riparian species assemblages. For example, Richardson (2003) states that riparian buffers of 30 meters (98 feet) appear to effectively mitigate the effects of forest harvesting for many forest amphibians and small mammals. Similarly, Vesely and McComb (2002) found only slightly lower abundance of amphibians in buffers greater than 40 meters (131 feet). Some studies, however, found differences 150 to 300 feet from the stream. Current amounts of seeps or springs available for species dependent on these areas would remain unchanged, as these non-forest habitats are generally non-commercial and not part of a Timber Management Area (PRMP/FEIS at 2-27 and 4-749).

The PRMP/FEIS addresses spotted owl dispersal habitat across the planning area (PRMP/FEIS at 4-661 to 4-667). The analysis was conducted at the fifth field watershed level and did not differentiate between habitat contributions from the Riparian Management Areas versus the upland forest. While Thomas (1990) and Courtney et al. (2004) define minimum dispersal structural characteristics, science does not define the minimum quantity or spatial arrangement of habitat needed to support owl movement (PRMP/FEIS at 3-290). Therefore, it is not currently possible to address solely the contribution of Riparian Management Areas to dispersal habitat, and the criteria proposed by Thomas et al. remains "the best for evaluating minimum habitat conditions...that facilitate owl movement between the blocks..." (PRMP/FEIS at 3-290).

Currently, 58 watersheds contain a functional level of dispersal habitat (PRMP/FEIS at 4-661) which would increase to 82 watersheds by 2056 under the PRMP (PRMP/FEIS at 4-664).

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### *Northern Spotted Owl - Managed Owl Conservation Centers*

**Issue Number:** PP-OR-WOPR-09-0228-87  
**Organization:** Oregon Wild & Klamath Siskiyou  
Wildlands Center, Klamath-Siskiyou Wildlands  
Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**  
52. The PRMP does not implement key aspects of the Final Recovery Plan for the Northern Spotted Owl, such as the recommendation to conserve large snags after wildfires that affect MOCAs and dry forests

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### *Summary*

The PRMP does not implement key aspects of the Final Recovery Plan for the northern spotted owl, such as the recommendation to conserve large snags after wildfires that affect Managed Owl Conservation Centers (MOCAs) and dry forests.

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### *Response*

Recovery Action 10 in the 2008 Final Northern Spotted Owl Recovery Plan (Recovery Plan)

recommends retention of large tree, snag, and downed-wood legacy structures as part of post-fire habitat projects within MOCAs and in all areas of the dry-forest. These structures are important for the future development of suitable spotted owl habitat (USFWS 2008 at 26).

The PRMP management direction sets a retention standard for both snags and coarse woody debris for post-fire salvage occurring in the Late-successional Management Areas (PRMP/FEIS Table 2-4 at 2-32). Critical Habitat Units established in the Recovery Plan overlap with the Late-successional Management Areas in the PRMP (PRMP/FEIS Appendix H at 212). Retention requirements in these areas exceed the 50 percent tolerance levels established by Mellen et al. (2006), and approach the 80 percent tolerance levels (PRMP/FEIS Table 4-78 at 4-739). This management direction meets the intent of the recovery actions outlined in the Recovery Plan.

In addition, as this type of project would occur within northern spotted owl critical habitat, project level consultation with the U.S. Fish and Wildlife Service would occur.

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### *Risk of Extinction*

**Issue Number:** PP-OR-WOPR-09-0008-20

**Organization:** Individual

**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

Given that the loss of old-growth habitat has been the major cause of decline for the [Northern Spotted Owl], adoption of the PRMP will increase the risk of extinction of the owl in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0008-23

**Organization:** Individual

**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

Given that the loss of forest habitat has been the major cause of decline in the decline of the marbled murrelet, adoption of the PRMP will increase the risk of extinction of the marbled murrelet in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0008-24

**Organization:** Individual

**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

Just as for the northern spotted owl and the marbled

murrelet discussed above, the PRMP risk jeopardy to ESA-listed salmon and steelhead and fails to rely on the best available science to reach conclusions about harm to aquatic ecosystems.

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**Issue Number:** PP-OR-WOPR-09-0008-25

**Organization:** Individual

**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

By reducing riparian protections and the Aquatic Conservation Strategy, the PRMP will increase the risk of extinction of the listed salmon in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0192-3

**Organization:** Forest Service Employees for Environmental Ethics

**Protester:** Andy Stahl

**Issue Excerpt Text:**

The FEIS is similarly silent regarding the scientific consensus that the spotted owl faces a substantial extinction risk. In 1993, even "the BLM admit[ed] that experts believe that any further loss of habitat could severely compromise the ability of the owl to survive as a species." *Portland Audubon SOC'y v. Babbitt*, 998 F.2d 705, 708 (9th Cir. Or. 1993) (emphasis added). WOPR provides no evidence that the spotted owl is in any more secure a status today than it was in 1993; in fact, BLM cites additional risks to the owl's survival beyond those

acknowledged then, e.g., barred owl competition and West Nile Virus. Yet nowhere in the FEIS is there any mention of this serious risk to the owl's survival. In words that could have been written about the WOPR FEIS, "[i]t would not further NEPA's aims for environmental protection to allow the Forest Service to ignore reputable scientific criticisms that have surfaced with regard to the once 'model' ISC Strategy." Seattle Audubon Soc'y v. Espy, 998 F.2d 699, 704 (9th Cir. Wash. 1993). So, too, it does not further NEPA's aim for environmental protection to allow the BLM to ignore reputable scientific criticisms that have surfaced with the regard to the risks associated with any further loss of owl habitat.

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**Issue Number:** PP-OR-WOPR-09-0202-13  
**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club  
**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**  
Given that the loss of old-growth habitat has been the major cause of decline for the owl, adoption of the PRMP will increase the risk of extinction of the owl in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0202-14  
**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club  
**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**  
Given that the loss of forest habitat has been the major cause of decline in the decline of the marbled murrelet, adoption of the PRMP will increase the risk of extinction of the marbled murrelet in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0202-18  
**Organization:** American Bird Conservancy, Maryland Ornithological Society, Howard County Bird Club  
**Protester:** Steve Holmer, Wayne Bell, Kurt Schwarz

**Issue Excerpt Text:**  
The NWFP provides important protections for the Spotted Owl beyond the reserves including Standards and Guidelines that restrict the amount of logging in the matrix and riparian reserves, the 15% retention requirement, and no cut buffers around owl clusters. By moving away from the NWFP, BLM is violating the ESA's best science mandate and risking jeopardy to the threatened Northern Spotted Owl.

**Issue Number:** PP-OR-WOPR-09-0204-11  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**  
The action alternatives in the FEIS violate the Endangered Species Act.

By delinking from the Northwest Forest Plan, BLM is violating the ESA's best science mandate and is risking jeopardy to the threatened northern spotted owl.

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**Issue Number:** PP-OR-WOPR-09-0204-12  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**  
Despite the acknowledgments about the importance of the Northwest Forest Plan reserve system, BLM's alternatives eliminate that very reserve system. Despite the fundamental importance of preserving old-growth forest habitat for the owl, BLM's alternatives decrease suitable and dispersal habitat. These alternatives violate the ESA and will jeopardize the survival and recovery of the threatened northern spotted owl.

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**Issue Number:** PP-OR-WOPR-09-0204-18  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**  
Given that the loss of forest habitat has been the driving factor in the decline of the marbled murrelet, adoption of any of the action alternatives - and in particular proposed resource management plan - will increase the risk of extinction of the marbled murrelet in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0204-19  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**  
The PRMP will increase the risk of harm to threatened marbled murrelets, and BLM's proposal would jeopardize the species, in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0204-2  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**  
3. The PRMP does not comply with the ACS, violating the ESA's best science mandate.

The PRMP offers smaller riparian reserves and less aquatic protection than the ACS. Simply put, this less protective scheme does not comply with the best available science and risks jeopardy to listed salmon and steelhead.

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**Issue Number:** PP-OR-WOPR-09-0206-5

**Organization:** Individual

**Protester:** Carole Gale

**Issue Excerpt Text:**

1) Northern Spotted Owl. The PRMP of the WOPR will decrease protections for the northern spotted owl by eliminating reserves or allowing logging within reserves. These diminished protections will lead to a decrease in both habitat quantity and quality over the next 50 years and a decrease in quality over the next 100 years. Given that the loss of old-growth habitat has been the major cause of decline for the owl, adoption of the WOPR PRMP will increase the risk of extinction of the owl in violation of the Endangered Species Act (ESA).

2) Marbled Murrelet. The PRMP of the WOPR will decrease protections for the marbled murrelet by eliminating reserves or allowing logging within reserves. These diminished protections will lead to a decrease in both habitat quantity and quality over the next 50 years and a decrease in quality over the next 100 years. Given that the loss of old-growth habitat

has been the major cause of decline for the owl, adoption of the WOPR PRMP will increase the risk of extinction of the marbled murrelet in violation of the Endangered Species Act (ESA).

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**Issue Number:** PP-OR-WOPR-09-0260-10

**Organization:** Individual

**Protester:** Bruce Campbell

**Issue Excerpt Text:**

the FEIS and all action alternatives clearly violate the Endangered Species Act by seeking to eliminate critical habitat especially in the Medford District of BLM. Not only are areas in Zone 2 eliminated from consideration for more sensitive management to help the murrelet (these are the zones from the Northwest Forest Plan rather than the six zones related to the MAMU [marbled murrelet] recovery plan), but the action alternatives in the WOPR's FEIS would eliminate even some areas of the more coastal proximate Zone 1!

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**Issue Number:** PP-OR-WOPR-09-264-26

**Organization:** Klamath-Siskiyou Wildlands Center

**Protester:** Joseph Vaile

**Issue Excerpt Text:**

By allowing the likely extirpation of species from all or parts of its lands, and the harm to other species caused by the WOPR, the BLM has violated FLPMA.

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***Summary***

The PRMP will increase the risk of extinction to listed species including the northern spotted owl, marbled murrelet, salmon, and steelhead in violation of the Endangered Species Act.

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***Response***

The management objective of the PRMP with respect to wildlife is to provide for the conservation of BLM special-status species, which include ESA-listed species (PRMP/FEIS at 2-70). Accordingly, the management direction of the PRMP provides that future actions implemented in accordance with the PRMP would be consistent with recovery plans and designated critical habitat (PRMP/FEIS at 2-70).

Under the PRMP, 57 percent of BLM-administered land in the planning area (1,202,933 acres) would be outside of the harvest land base. These lands would be delineated mostly as Late-Successional Management Areas (LSMA) or Riparian Management Areas (784,803 acres), with additional acres in congressionally reserved areas or administrative withdrawals (410,683 acres) (PRMP/FEIS at 2-27, 2-28 and 2-32).

## Marbled Murrelet

The PRMP is consistent with the 1997 Final Recovery Plan for the Marbled Murrelet (USDI USFWS 1997). The U.S. Fish and Wildlife Service designated critical habitat for the marbled murrelet in January 1996. In response to public comment, the BLM made adjustments to the proposed action to stabilize and increase marbled murrelet nesting habitat (PRMP/FEIS at 4-685).

On July 31, 2008, the U.S. Fish and Wildlife Service published a proposed rule that would change critical habitat for the marbled murrelet (PRMP/FEIS at 3-306). The proposal would remove approximately 250,000 acres from designated critical habitat (in the Northwest Forest Plan management Zone 2) in northern California and Oregon based on new information that indicates that these areas do not meet the criteria for critical habitat. Approximately 60,000 of the removed acres fall within BLM-administered lands in western Oregon. A final rule has not yet been published. Delay in the publication of the final rule has two potential implications for the Western Oregon Plan Revision PRMP/FEIS analysis.

1. Analysis of effects of the alternatives on the marbled murrelet and its critical habitat: The analysis of the environmental effects of the alternatives on marbled murrelet was based on effects to all nesting habitat regardless of whether or not it occurs within critical habitat units. The delay in issuing the final rule would therefore have no relevance to this analysis. Appendix H (PRMP/FEIS Appendix H at 214 to 217) contains an analysis of how nesting habitat would develop under the alternatives within the marbled murrelet critical habitat units designated in 1996. The critical habitat units affected by the proposed rule are noted. Again, the delay would have no relevance to this analysis, because the analysis was in regard to the critical habitat existing at the time, rather than to the proposed change to critical habitat.

2. Designation of the Timber Management Area Land Use Allocations and resulting levels of Annual Sale Quantity of timber: The Timber Management Area land use allocation contains approximately 23,000 acres in Zone 2 that would be critical habitat under the 1996 rule but would not be critical habitat under the proposed rule. Because the BLM had anticipated that the final rule would be published prior to the Western Oregon Plan Revision Record of Decision, these acres were included in the harvest land base and therefore contributed to sustained yield timber management and the calculation of the annual sale quantity. These acres represent approximately 2 percent of the harvest land base in BLM-administered lands in western Oregon. Additionally, about 7,000 of these 23,000 acres occur in the Deferred Timber Management Area land use allocation and would not be subject to harvest for 15 years.

Any future planned timber harvest within the boundaries of critical habitat would include appropriate NEPA analysis and Endangered Species Act consultation with the U.S. Fish and Wildlife Service prior to implementation, which would ensure that any action would not result in the destruction or adverse modification of critical habitat. Any potential effect on the allowable sale quantity of timber if the BLM avoids timber harvest within the harvest land base pending completion of the proposed change to marbled murrelet critical habitat is speculative at this time. If no final rule is published, any potential effect on the allowable sale quantity of timber of avoiding timber harvest within the harvest land base to avoid destruction or adverse modification of marbled murrelet critical habitat would be addressed in the 5th-year evaluation of the RMP.



Under the PRMP's management direction, all known and occupied marbled murrelet sites would receive protection from future harvest (PRMP/FEIS at 4-684).

When future projects are proposed, pre-project surveys will be conducted to approved protocol standards prior to implementation of any habitat-disturbing activities (PRMP/FEIS at 2-70 and 4-684). The Pacific Seabird Groups' *Method for surveying marbled murrelets in forests: a revised protocol for land management and research* (Marck *et al.* 2003) is the currently approved protocol.

Under the PRMP's management direction, land within Marbled Murrelet Zones 1 and 2 would be managed for the development of late-successional characteristics (PRMP/FEIS at 4-685). Zone 1 represents the approximate area identified in the marbled murrelet recovery plan as the recovery area for the species. Under the PRMP, marbled murrelet nesting habitat in the Coos Bay District is expected to initially decline 8 percent by 2026. Additional habitat development is expected to lead to a 63 percent increase in Coos Bay by 2106. Over the broader scope of all western Oregon BLM-administered lands, marbled murrelet nesting habitat would be expected to increase 82 percent under the PRMP (PRMP/FEIS at 4-687 to 4-688).

#### Northern Spotted Owl

The management direction of the PRMP is consistent with the 2008 Final Recovery Plan for the Northern Spotted Owl (USDI USFWS 2008).

In accordance with Recovery Action 5 of the Northern Spotted Owl Recovery Plan, the PRMP would delineate LSMAs (637,439 acres) to overlay the Managed Owl Conservation Areas that occur on BLM-administered land outside of congressionally reserved areas (PRMP/FEIS at 4-645). The LSMAs would be managed to maintain or promote the development of the primary constituent elements of spotted owl critical habitat.

The PRMP would delineate LSMA-11 (Oregon Managed Owl Conservation Area-11 (OMOCA) from recovery plan) and LSMA-28 (OMOCA-28 from recovery plan) to support spotted owl movement and survival in, respectively, the South Willamette-North Umpqua and Umpqua-Rogue areas of concern (PRMP/FEIS at 4-665).

In accordance with Recovery Action 8 of the Recovery Plan, when implemented through future actions, the PRMP would be expected to increase the quantity of spotted owl habitat in the low and mixed fire-severity regimes on BLM-administered lands throughout the planning area and implement uneven-aged management prescriptions on BLM-administered lands in portions of the Medford District and in the western Klamath Falls Resource Area to improve the fire resiliency of treated stands (PRMP/FEIS at 4-671).

In accordance with Recovery Action 32, the Proposed RMP would defer, for 15 years, the harvest of 183,123 acres of older and more structurally complex forest on BLM-administered lands in the planning area that are outside the Managed Owl Conversation Areas (MOCA) (PRMP/FEIS at 4-680).

To avoid adverse effects from disturbance to northern spotted owls and their young at known nest sites, under the PRMP's management direction, the BLM would restrict activities within threshold distances of known, active spotted owl nest sites identified through project level consultation.

#### ESA-Listed Fish

There are eight anadromous fish populations and four resident fish population segments that occur on BLM-administered lands within the planning area that are listed as threatened or endangered under the Endangered Species Act (PRMP/FEIS at 3-362). Habitat degradation is a factor of decline for most of these populations and is a major risk factor that continues to threaten all of the population segments. Large wood, stream temperature, sediment, and water flow have the greatest influence on aquatic habitat and the ability of aquatic habitat to support fish populations.

The FEIS used updated information from the National Marine Fisheries Service and Southwest Fisheries Science Centers biological review teams regarding limiting factors for listed Salmon and Steelhead evolutionarily significant units/distinct population segments (ESUs/DPSs) in the planning area (PRMP/FEIS at 3-365 to 3-372). The FEIS specifically analyzed key ecosystem processes that have the greatest influence on fish and their habitat for the PRMP and all alternatives (PRMP/FEIS at 3-372). These include wood delivery (PRMP/FEIS at 4-780 to 4-796), fine sediment delivery (PRMP/FEIS at 4-799 to 4-800), stream shade/temperature (PRMP/FEIS at 4-801), nutrient input (PRMP/FEIS at 4-797 to 4-799), peak flows (PRMP/FEIS at 4-800 to 4-801), and aquatic restoration activities (e.g., fish passage) (PRMP/FEIS at 4-802 to 4-803). The past land use practices that most severely degraded fish habitat (stream cleaning and building of splash dams) no longer occur. In addition, improvements in road construction and grazing practices have reduced or eliminated adverse effects to fish habitat on BLM-administered lands (PRMP/FEIS at 3-362). All alternatives, including the Proposed RMP, would be expected to provide for riparian and aquatic conditions that supply stream channels with shade, sediment filtering, leaf litter and large wood, and streambank stability, but to varying degrees. All alternatives would be expected to improve riparian and aquatic conditions from current conditions that affect fish productivity (PRMP/FEIS at 4-801).

The BLM has satisfied its ESA Section 7 obligations by coordinating with the Services (see generally 16 U.S.C. 1536(a)). The BLM has examined the potential effects of revising resource management plans in western Oregon on listed species and designated critical habitat. In the resource management plan revision process, the BLM proposes to allocate lands to various categories of use and establish management direction for planning future activities on those lands. The PRMP does not authorize any site specific actions. As a result of this examination, the BLM has determined that its proposed action of revising resource management plans would have no effect for purposes of Section 7(a)(2) on these species or on critical habitat. In the future when a specific project is proposed, sufficiently detailed information will be available for analyzing the effect of the project on listed species or critical habitat under Section 7(a)(2) before the BLM issues a contract, or any other form of a legal right, or otherwise approves any ground-disturbing activity.

## *Snags and Down Wood*

**Issue Number:** PP-OR-WOPR-09-0228-103  
**Organization:** Oregon Wild & Klamath Siskiyou  
Wildlands Center, Klamath-Siskiyou Wildlands  
Center  
**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

64. The EIS did not disclose the cumulative effects of past and proposed land use on dead wood habitat. Almost every management activity in the forest reduces snag and dead wood habitat: clearcutting,

salvage and sanitation logging, thinning, fire suppression, firewood cutting, hazard tree cutting along very extensive road network and extensive work areas. There is currently a huge deficit of large snags across the landscape and BLM should have considered alternatives that would address this deficit in order to meet objectives such as: site productivity and permanent forest production, watershed protection, avoiding the need to list species that are associated with dead wood, carbon storage that can help mitigate climate change, etc.

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### *Summary*

The PRMP/FEIS does not adequately disclose the cumulative effects of management actions on down wood habitat and snags.

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### *Response*

The PRMP/FEIS analyzed the effects of management to down wood and snags (PRMP/FEIS at 4-737 to 4-742). Tolerance levels of coarse woody debris were used to compare the different management actions for coarse woody debris under the alternatives against coarse woody debris data for un-harvested forests synthesized by Mellen et al. (2006). According to the USGS Open-file report 2007-1054 (Assessment and Management of Dead-Wood Habitat), Mellen et al. (2006), this is the best tool currently available to forest managers for managing dead-wood habitat. Snags and down woody debris information in the ORGANON stand tables provided detailed information necessary to complete the habitat descriptions for the OPTIONS modeling of Northern Spotted Owl Habitat and Structural Stage Classification (PRMP/FEIS Appendix R at 716 to 717).

Under the PRMP, the management action for snags in the Western hemlock vegetation series would provide snags at densities between the 30 percent and 50 percent tolerance levels in the Coast Range and below the 30 percent tolerance level in the West Cascades within the Late-successional Management Areas (LSMA) and the LSMA marbled murrelet critical habitat units (i.e., 23 percent of BLM-administered lands in the planning area). Management actions in the LSMA for snags in the Douglas fir vegetation series and the tanoak vegetation series would generally provide snag densities below the 30 percent tolerance level for observed densities in Southwestern Oregon (PRMP/FEIS at 4-740).

Within the Riparian Management Areas (RMAs), snags and down wood would be retained except for safety or operational reasons (PRMP/FEIS at 2-33). This area totals approximately 10 percent of BLM-administered lands within the planning area. No snags would be retained or created within the Timber Management Areas (TMA) (approximately 27 percent of BLM-administered lands in the planning area). Snag density within the RMA and TMA would be below the 30 percent tolerance level (PRMP/FEIS at 4-740).

Within the forest management areas of the Eastside Management Lands land use allocation (i.e. 1 percent of BLM-administered lands within the planning area), snags would be provided below the 30 percent tolerance level. With the Uneven-aged Management Area (i.e., 8 percent of the BLM-administered lands within the planning area), there is no management direction for snag retention or creation. However, a reasonable analytical assumption is that existing non-merchantable snags would be retained, except where they would be removed for safety or operational reasons. Snag density would not be altered by management actions on the remaining 24 percent of BLM-administered lands within the planning area (i.e., Deferred Timber Management Areas, National Landscape Conservation System Lands, and Administratively Withdrawn Lands) (PRMP/FEIS at 4-740).

Forest floor habitat quality is summarized in the PRMP/FEIS (PRMP/FEIS Table 4-84 and Figure 4-138 at 4-751). Based on the modeling results, at least 50 percent of the forest floor habitat would persist in a habitat quality category of 4 or 5 under the PRMP (PRMP/FEIS at 4-751); therefore, forest floor associated species would persist on BLM-administered lands under the PRMP.

Overall, there would be an increase in the amount of forests with legacy components (e.g., stands that are mature and structurally complex, young with structural legacies, or stand establishment with structural legacies) under all alternatives from the current level of 62 percent (1,327,973 acres) of the planning area to between 66 percent and 92 percent (1,421,858 acres to 1,971,964 acres) in 2106. The value of legacy structure in the stand establishment forests persists from stand establishment into the more advanced structural stages, typically providing larger diameter structure, a broader array of decay classes, and retention trees that provide a source of larger diameter snags and down wood than would otherwise develop in the subsequent structural stages. The influence of this initial input of snags, down wood, and remnant trees would be expected to provide habitat value for wildlife for approximately 100 years or longer (PRMP/FEIS at 4-736).

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### *Special Status Species*

**Issue Number:** PP-OR-WOPR-09-0228-125

**Organization:** Oregon Wild & Klamath Siskiyou Wildlands Center, Klamath-Siskiyou Wildlands Center

**Protester:** Doug Heiken, Joseph Vaile

**Issue Excerpt Text:**

BLM should have disclosed the effects on rare and uncommon species as a matter of NEPA. Even though BLM is not mandated to protect S&M species they are procedurally required to conduct informed decision-making under NEPA.

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**Issue Number:** PP-OR-WOPR-09-0233-28

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Another ignored document is the BLM Manual 6840.22. The Manual embraces two basic principles: to assist in the recovery of threatened and endangered species, and to implement management practices so that species do not become threatened or endangered because of federal actions. It also sets forward a number of guidelines for the BLM to follow in undertaking its administrative duties." It is in the interest of the public and the affected special status species for BLM to undertake conservation actions for such species before listing is warranted or the designation of critical habitat becomes necessary.

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**Issue Number:** PP-OR-WOPR-09-0260-8

**Organization:** Individual

**Protester:** Bruce Campbell

**Issue Excerpt Text:**

Special Status species include Sensitive Species (while a component of this category includes listed species under the federal ESA as well as species such as the Fisher) as well as Strategic Species. Page 3-315 of the FEIS says that "The primary resource management objectives of the BLM special status species policy are to:" .... (the third bullet point on

that page 3-315 of the FEIS being) ... "use all methods and procedures necessary to improve the condition of special status species and their habitats to a point where their special status recognition is no longer warranted." Causing further harm to species such as the murrelet, fisher, and NSO does not abide by this mandate to not only protect habitat but to help those species recover.

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***Summary***

The BLM did not consider effects to special status species as required by their special status species policy (BLM Manual Chapter 6840).

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***Response***

The FEIS outlines the requirements of the Special Status Species Policy in Chapter 1 (PRMP/FEIS at 1-12) and details management objectives and directions in Chapter 2 for special status plants and wildlife (PRMP/FEIS at 2-129 and 2-137). The primary resource management objectives of the BLM Special Status Species Policy (BLM Manual 6840) are to conserve species, ensure that actions do not contribute to the need to list any species under the Endangered Species Act consistent with conservation needs, and to improve the condition of their habitat to the point where their special status is no longer warranted (PRMP/FEIS at 2-47, 2-70, 2-121, 2-128 to 2-129, 2-136 to 2-137 and 3-315). Riparian management under the PRMP would contribute to conservation and protection of special status species (e.g., PRMP/FEIS at 2-32 to 2-35 and 2-152 to 2-153). Under the No Action Alternative and the PRMP, BLM Special Status Species Policy would be applied to O&C and public domain lands in the planning area (PRMP/FEIS at 4-746).

There are 296 special status plant species and fungi in the planning area, with 155 species documented to occur on BLM-administered lands (PRMP/FEIS at 3-265; Appendix F at 149 to 193). There are 98 special status wildlife species documented or suspected to occur in the planning area (PRMP/FEIS at 3-315; Appendix H Table H-3 at 217 to 221).

For the analysis of effects, special status plants were categorized based on habitat relationships (PRMP/FEIS Appendix F Table F-3 at 160 to 180). Wildlife species were also categorized by the generalized association of each species with habitat type and structural stage (PRMP/FEIS Appendix H Table H-3 at 218 to 221).

The section on effects to special status botany species (PRMP/FEIS at 4-609 to 4-642) discusses conservation measures consistent with BLM Special Status Species Policy (BLM Manual 6840); the effects to federally listed plant and BLM sensitive species (PRMP/FEIS at 4-609 to 4-612); and the effects for each management activity (e.g., timber harvest, site preparation, road construction, OHV use, etc.). Effects to species in the National Landscape Conservation System and Areas of Critical Environmental Concern and application of the Special Status Species Policy, biological factors, risk to species, projected occurrences, and habitat are also discussed (PRMP/FEIS at 4-621 to 4-625).

Effects to federally listed wildlife species were discussed in detail in the PRMP/FEIS. Effects on the northern spotted owl incorporated conservation needs from the Northern Spotted Owl Recovery Plan (e.g., large blocks of suitable habitat formation, distribution and spacing, and dispersal habitat (PRMP/FEIS at 4-644 to 4-682)). Effects of management activities on the marbled murrelet were likewise extensively analyzed and disclosed (PRMP/FEIS at 4-684 to 4-697). The section on effects to recently delisted species (bald eagle) or federal candidate species (Pacific fisher) included analysis of effects to nesting/denning, roosting/resting, and foraging habitat (PRMP/FEIS at 4-710 to 4-720).

Please note that there is a formatting error in the wildlife section of the PRMP/FEIS, which makes it appear that effects to wildlife special status species (using effects on habitat) were not considered. Because of this formatting error, it gives the appearance that discussion on non-forest, riparian, and forest floor habitat types are all relevant only to Eastside Management Land Habitat (PRMP/FEIS at 4-748 to 4-751); however, that analysis of each of these habitat types is in fact discussing both Westside and Eastside habitats and associated species. Therefore, effects on habitat types and structural stages for each BLM Special Status Species (PRMP/FEIS, Appendix H Table H-3 at 218-221) was appropriately analyzed as per BLM Special Status Species Policy (BLM Manual 6840) and Instruction Memorandum OR-2003-054, where it states: “To comply with Bureau policy, Districts may use one or more of the following techniques: a) Evaluation of species-habitat associations and presence of suitable or potential habitat; [and] b) Application of conservation strategies, plans, and other formalized conservation mechanisms.”

An analysis of the effects on fish species was conducted through an assessment of how changes to large wood, nutrient input, sediment, flow, or temperature would affect fish habitat (PRMP/FEIS at 4-779).

The 1994 Record of Decision for the Northwest Forest Plan (NWFP) was amended by the 2001 Record of Decision to clarify the Survey and Manage Standards and Guidelines, requiring survey and management for Survey and Manage species. In 2007, the *Record of Decision to Remove the Survey and Manage Mitigation Measure Standards and Guidelines from Bureau of Land Management Resource Management Plans within the Range of the Northern Spotted Owl* was signed (PRMP/FEIS at 1-18 to 1-19). This removed these species from survey and management requirements. Former Survey and Manage species were assessed, and if appropriate, were placed on the Special Status Species lists. The Survey and Manage requirements were dropped in lieu of management for Special Status Species under BLM Manual 6840. As the Special Status Species Policy replaced the Survey and Manage Policy and is now the relevant policy for species management, it is appropriate to exclude analysis of Survey and Manage Species as a category in the FEIS.

When projects are proposed, there would be an additional assessment and review of the effects of proposed action on BLM sensitive species (PRMP/FEIS at 4-746). Based on removal of the Survey and Manage requirements, documentation of species presence across the planning area, correlation of species with habitat types and/or structural stages, and assessment of the changes in associated habitat types, the BLM appropriately analyzed effects to Special Status Species, consistent with the BLM Special Status Species Policy (BLM Manual 6840).

## Forestry

### *Structural Stage Classification*

**Issue Number:** PP-OR-WOPR-09-0216-5

**Organization:** Individual

**Protester:** Nellie Patterson

**Issue Excerpt Text:**

Thus, there are significant differences between the concepts of old growth forest as defined in the FEMAT Report and structurally complex forest as in the Western Oregon FEIS and the environmental

consequences of management that preserves or enhances Mature and Old Growth forests will differ from those that result from promoting Mature and Structurally Complex forests. The differences in definitions of fundamental concepts make it difficult to meaningfully compare the environmental consequences of the PRMP Alternative in the FEIS with those of the original Northwest Forest Plan (the No Action Alternative).

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### *Summary*

There are significant differences among the concepts of old growth forests as described in the FEMAT report and structurally complex forest as in the Western Oregon Plan Revision FEIS; these differences make it difficult to meaningfully compare environmental consequences.

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### *Response*

The structurally complex stands identified in the PRMP/FEIS approximate the “old-growth” stands described in many analyses, including the “medium/large conifer multi-story” stands described in the FEMAT Report, and the “large, multi-storied older forest” stands described in the Late-successional Old Growth (LSOG) Monitoring Report. In the FEIS analysis, “late-successional forest” encompasses both mature and structurally complex stands, similar to how the Northwest Forest Plan FSEIS used “late-successional forest” to encompass mature and old-growth forests (PRMP/FEIS at 3-209). The LSOG Monitoring Report (at 9-10) summarized the difficulties in describing and classifying older forest conditions (PRMP/FEIS Appendix B at 15). The FEIS further clarifies the structurally complex subdivision, saying it includes existing old forest and developed structurally old forest. It also includes definitions of additional stand classification subdivisions and how they compare to stand definitions in the Northwest Forest Plan (NWFP) (PRMP/FEIS Table 3-2 at 3-208).

Finally, the FEIS analysis compares the outcome of existing old forest by 2106 under all alternatives (PRMP/FEIS Table 4-5 at 4-516). The analysis further explains that the current old forests (also identified in the NWFP) will continue to develop into older structurally complex forests, although the specific amount varies by alternative (PRMP/FEIS at 4-513).

The PRMP/FEIS does incorporate consistent terminology, and thus provides a meaningful comparison of the environmental consequences of each of the alternatives, including the No Action Alternative that reflects the current RMPs. The RMPs were based on the NWFP which was the outcome from the options for management developed in the FEMAT Report.

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## Geology, Cave, Karst

### *Oregon Caves Impacts*

**Issue Number:** PP-OR-WOPR-09-0233-5  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The Final Environmental Impact Statement (FEIS) violates the Federal Cave Resources Protection Act (hereinafter "Caves Act") because it fails to "consider" impacts on Oregon Caves National Monument and fails to consider whether any other caves may be impacted by the increased timber and other activities under WOPR and whether such caves should be designated as "significant" in the revised plan. The comments on the Draft Environmental Impact Statement (DEIS) of the National Park Service, Oregon Caves National Monument, raised the issue of the effects of the WOPR on the National Monument (FEIS, Volume IV, Appendix T, p. 905). In addition, the National Park Service also expressed its concern about the duties under the Caves Act not being fulfilled in the DEIS (FEIS, Volume IV, Appendix T, p. 905).

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**Issue Number:** PP-OR-WOPR-09-0233-6  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The FEIS has failed to consider the caves in Oregon Caves National Monument. The FEIS does not even mention Oregon Caves National Monument, nor the Caves Act. This violates the BLM's duty to consider "significant" caves in its planning processes.

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**Issue Number:** PP-OR-WOPR-09-0233-7  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The Secretary of Interior's rules consider "significant" all the caves in lands managed by the National Park Service." 43 C.F.R. § 37.11(d). Therefore the caves in Oregon Caves National Monument are "significant caves" under the Caves Act. Furthermore, the obligation to consider "significant caves" is extended to any plant, animal or other elements of the cave. The Caves Act defines "cave" broadly to include "any cave resource therein." 16 U.S.C. § 4302 (1). The Act defines "caves resources" as including "any material or substance occurring naturally in caves on Federal lands, such as animal life, plant life, paleontological

deposits, sediments, minerals, speleogens, and speleothems." 16 U.S.C. § 4302 (5). The BLM cannot decide that there are no caves or cave resources affected by its planning without first evaluating in the EIS whether caves may exist that may be affected by the plan revision. This it failed to do.

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**Issue Number:** PP-OR-WOPR-09-0233-8  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

In the present case, Oregon Caves National Monument is not located within BLM land. But it is near various areas of BLM managed lands that are under planning in the WOPR. Any land management plan in BLM lands that will affect the cave and its resources, including animals, plant life, and erosion, must comply with the consideration provision in the Caves Act.

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**Issue Number:** PP-OR-WOPR-09-0233-9  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The National Park Service (NPS) expressed these concerns in its comment to the DEIS:

Firstly, "Oregon Caves National Monument should have been directly consulted as an 'affected federal agency' before the final draft" (FEIS, Volume IV, Appendix T, p. 905).

Secondly, the NPS comment recognized the effects of the planning in the Caves: "Alternative 3 would be most detrimental to the Monument, for most of the same reasons, including the fact that it would result in the least acreage of ACECs (p. 809)" (FEIS, Volume IV, Appendix T, p. 905).

Third, the comment said, regarding species: "Extirpations of species on BLM administered lands from some of the listed impacts may lengthen stochastic extirpations on and in the Monument as a result of reduced migration." (FEIS, Volume IV, Appendix T, p. 905).

To sum up, the WOPR may have an effect on the Oregon Caves National Monument, and therefore the



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### ***Summary***

The PRMP/FEIS violates the Federal Cave Resources Protection Act because it fails to consider impacts on Oregon Caves National Monument and fails to consider whether any other caves may be impacted by the increased timber and other activities under the PRMP.

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### ***Response***

The Federal Caves Resources Protection Act (Caves Act) and subsequent Department regulations require consideration of impacts of significant caves in the preparation or implementation of a land management plan (16 U.S.C. 4303(c)(1)). The Oregon Caves National Monument is located outside of BLM-administered lands for the Western Oregon Plan Revision FEIS, and there are no significant caves identified in the planning area. Land use plan-level analyses are typically broad and qualitative rather than quantitative or focused on site-specific actions (H-1601-1, Chapter II, A-B at 11 to 13 and Chapter IV, B at 29; PRMP/FEIS at 1-19 to 1-20 and 5-895). The PRMP contains only planning actions and does not include any implementation actions. Therefore, impacts to significant caves, including the Oregon Caves, were not included in this analysis. When the BLM proposes to take an action on lands managed under the revised plan, the BLM will conduct subsequent site-specific NEPA analyses that would include an analysis of potential effects to significant caves. These analyses will tier to the FEIS analysis and expand the environmental analysis when more specific information is known. In addition, as required by NEPA, the public will be offered the opportunity to participate in the NEPA process for these specific actions. The Oregon Caves National Monument will be directly consulted as an "affected federal agency" as necessary on future implementation actions.

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## ***Recreation, Visitor Services***

### ***Special Recreation Management Areas***

**Issue Number:** PP-OR-WOPR-09-0235-15

**Organization:** Umpqua Watersheds

**Protester:** Francis Eatherington

**Issue Excerpt Text:**

Non-motorized Recreation in Roseburg BLM District: Page 120 of the DEIS, and 137 of the FEIS, tells us that the Umpqua Special Recreation Management Area (SRMA) is being reduced from 2,240 acres under the current plan, down to only 457 acres under all action alternatives. The map of this

(DEIS 167, FEIS 170) is useless in telling us what areas are being dropped, but this appears to be a terrible loss for recreation. We asked the Roseburg BLM to describe what recreation acres we are losing, but even they were unable to do so. From the very poor maps, one can roughly guess that the Umpqua SRMA is near the Umpqua River Wildlife ACEC. Is it? If loosing the Umpqua ACEC equates to loosing almost 2,000 acres of a recreation area, the EIS failed to disclose this to the public.

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### ***Summary***

The FEIS failed to disclose why the Umpqua River Wildlife ACEC and the Umpqua Special

Recreation Management Area are being reduced in size and if there is any relation between the two.

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### ***Response***

Under the PRMP and Alternatives 1, 2, and 3 the Umpqua River Wildlife ACEC and the Umpqua Special Recreation Management Area are two separate areas with different management designations. For the Umpqua River Wildlife ACEC, the BLM would not designate ACECs on O&C lands where they would be managed contrary to the O&C Act for timber resources (PRMP/FEIS at 1-11). The 855-acre Umpqua River Wildlife ACEC would no longer be designated as an ACEC under any of the action alternatives because the wildlife relevant and important values cannot be effectively managed without including the O&C harvest land base (PRMP/FEIS Appendix N at 484 and 490). However, most of the acres in the former ACEC will be included in the bald eagle management area and would be managed according to special status species direction in the PRMP (PRMP/FEIS at 2-71).

The data for the current RMP had aggregated a number of different designations and management areas into one general "Umpqua" recreation management area. However, the specific Umpqua Special Recreation Management Area is 457 acres under the PRMP (PRMP/FEIS at 2-73). The acreage of the Umpqua Special Recreation Management Area (PRMP/FEIS at 2-73) does not include the Umpqua River Wildlife ACEC. Overall, the number of acres in the Roseburg District designated as Special Recreation Management Areas is increasing from 5,952 to 10,778 acres under the PRMP (PRMP/FEIS at 2-73 to 2-74).

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## **Socio Economics**

### ***Secure Rural Schools Funding***

**Issue Number:** PP-OR-WOPR-09-0208-1

**Organization:** Individual

**Protester:** Leslie Rubinstein

**Issue Excerpt Text:**

The FEIS states that Secure Rural Schools funding has expired and that there are no proposals for long-term extension (Chapter 4, p. 547). This information is now entirely inaccurate. Not only has the Secure

Rural Schools funding been reauthorized for four years, but a Congressional proposal for a permanent or long-term solution has been mentioned by Oregon Senator-elect Jeff Merkley. Since the Secure Rural Schools funding is significantly higher than the proposed FEIS-generated revenues, FEIS Chapter 4 is now out-of-date and does not accurately reflect current economic reality.

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### ***Summary***

The Secure Rural Schools funding has been reauthorized for 4 years; therefore, the socioeconomic section in Chapter 4 of the FEIS is now out-of-date and does not accurately reflect current economic reality.

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### ***Response***

The protester states that the FEIS does not accurately reflect the current economic reality because

of the reauthorization of the Secure Rural Schools legislation. However, the protester does not state how this additional information would substantially alter the analysis. The socioeconomic analysis in the FEIS acknowledged the possibility of short-term renewals of the county payments program, but predicted that a long-term or permanent extension of the Secure Rural Schools and Community Self-Determination Act, or new similar legislation, would not occur (PRMP/FEIS at 4-547 and 4-551). The stated purpose of the reauthorization includes stabilizing and transitioning payments to the counties. This reauthorization is intended to provide a financial bridge to prepare for the eventual loss of the program. The annual payment amount will decrease each year during the reauthorization until 2011 when the reauthorization expires and payments cease. The legislation that passed subsequent to the publication of the FEIS is consistent with the prediction made in the FEIS. Thus the Chapter 4 socioeconomic analysis accurately reflects the current economic situation.

The temporary reauthorization of the Secure Rural Schools funding does not change the basic assumptions used for modeling the economic impacts on the O&C counties. The reauthorization of the county payments program does not create significant new circumstances or information relevant to environmental concerns bearing on the selected alternatives or its impacts. For this instance, the amount of money provided by Secure Rural Schools would affect all alternatives equally and, therefore, would not change the ranking of alternatives nor the fundamental conclusions.

Under CEQ regulations, a supplemental EIS is required where there is “significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts” (40 CFR 1502.9). The BLM NEPA Handbook further explains when supplementation is appropriate (H-1790-1 at 5.3.1 to 5.3.2). The BLM utilized the available data to provide an adequate analysis that led to an adequate disclosure of the potential environmental consequences of the alternatives in the PRMP/FEIS (PRMP/FEIS at 4-473 to 4-862). The BLM has determined that additional analysis based on the extension of the secure rural schools funding is not warranted.

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## ***Travel Management***

### ***Heceta Dunes Off-Highway Vehicle Area***

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**Issue Number:** PP-OR-WOPR-09-0233-59

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The OHV proposal for Heceta Dunes would violate many criteria within 43 CFR §8342.1 because these 210 acres abut USFS land where illegal OHV use has been a continuous problem for many years. The USFS has proposed to close its land to OHV use in this area due to problems with illegal OHV use. Finally, 77 acres of this proposed land is adjacent to

private residents and includes rare plant habitat. Pursuant to NEPA regulation §1502.16(c), the BLM's failure to address and/or mitigate these issues in the FEIS creates a conflict between "the proposed action and the objectives of Federal, regional, State and local ... land use plans, policies and controls for the area concerned." These concerns were voiced during Public Comment voiced on January 9, 2008, by Cascadia Wildlands, et al., at page 151, and were not addressed by the BLM in the FEIS. Such failure to respond to comments is a violation of NEPA's duty under §1502.9(b) and §1503.

## *Summary*

The OHV proposal for Heceta Dunes in the PRMP would violate many criteria within 43 CFR 8342.1 because these 210 acres about U.S. Forest Service land where illegal OHV use has been a continuous problem for many years.

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## *Response*

The PRMP/FEIS does not propose any OHV use or designation changes for Heceta Dunes (PRMP/FEIS at 2-61 to 2-62 and 2-94 to 2-97). Heceta Dunes would remain closed to OHVs under all alternatives (PRMP/FEIS at 2-94 to 2-97).

The PRMP/FEIS is in compliance with 43 CFR 8342.1. Individual district offices manage site-specific issues such as illegal activities. Districts address site-specific projects through separate, site-specific NEPA analysis.

For additional information on the impact analysis in the Western Oregon Plan Revision PRMP/FEIS, refer to the response for "Impact Analysis."

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## *Off-Highway Vehicle Emphasis Areas - Regulations and Policies*

**Issue Number:** PP-OR-WOPR-09-0004-1

**Organization:** Individual

**Protester:** Roger and Sally Scheusner

**Issue Excerpt Text:**

The siting of the proposed Elliot Creek OHV Emphasis Area near our homes is a direct violation of Executive Order 11644 signed by President Richard Nixon on February 8, 1972, which states in Section 3, Paragraph 3, that "Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors."

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**Issue Number:** PP-OR-WOPR-09-0004-2

**Organization:** Individual

**Protester:** Roger and Sally Scheusner

**Issue Excerpt Text:**

We are protesting the fact that the BLM has refused to recognize our concerns in Selma, Oregon, by establishing the Elliot Creek OHV Emphasis Area immediately adjacent to hundreds of residents on the north side of Selma and failing to disclose the criteria used to select this and other OHV Emphasis Areas.

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**Issue Number:** PP-OR-WOPR-09-0007-3

**Organization:** Individual

**Protester:** Gordon Lyford

**Issue Excerpt Text:**

First, the OHV Emphasis Area concept and designations in the FEIS violate BLM policy. The January 2001 "National Management Strategy for Motorized Off-Highway Vehicle Use on Public Lands (DOI-BLM)" describes OHV policies and laws. On page 3 of that report the three types of OHV designations of "Open", "Limited", and "Closed" are defined. On page 8 of that report it is stated that the BLM must designate public lands for OHV uses only as "Open", "Limited", or "Closed". However, in the FEIS, the BLM has "invented" the designation "OHV Emphasis Areas" (see FEIS Table 2-30 and Map 2-9) (not defined in the FEIS) which is not one of the three allowable OHV designations. It is stated in the FEIS that the No-Action Alternative has three "OHV Emphasis Areas" (page 4-819 and page 848 in Appendix T), that is not true as they are called "OHV areas".

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**Issue Number:** PP-OR-WOPR-09-0008-26

**Organization:** Individual

**Protester:** John Phillips

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[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

The PRMP In identifying ORV Emphasis Areas, the BLM failed to follow its own regulations, which require that all ORV designations "be based on the protection of the resources of the public lands, the promotion of the safety of all the users of the public lands, and the minimization of conflicts among various uses..."

These regulations include specific criteria, which have been upheld by Federal Courts, including:

OHV areas and trails "shall be located to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands..." (43 CFR §8342.1(a)). OHV areas and trails "shall be located to minimize conflicts between (ORV) use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors" (43 CFR §8342.1(c)).

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**Issue Number:** PP-OR-WOPR-09-0144-18

**Organization:** Individual

**Protester:** Hope Robertson

**Issue Excerpt Text:**

According to the Department of Interior's OHV management rules (see CODE OF FEDERAL REGULATIONS, TITLE 43--PUBLIC LANDS: INTERIOR, PART 8340--OFF-ROAD VEHICLES, subpart 8342.) Designation of Areas and Trails, BLM as part of the process to determine whether an area is an appropriate OHV designation area is supposed to insure that it "minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors."

There is absolutely no data in the draft or final EIS showing that any analysis of this type was done for any of the OHV designations for the Medford District or elsewhere.

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**Issue Number:** PP-OR-WOPR-09-0144-22

**Organization:** Individual

**Protester:** Hope Robertson

**Issue Excerpt Text:**

designating OHV areas prior to completing a Travel Management Plan for any of the areas being

considered as possible OHV areas is in direct conflict with BLM's rules.

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**Issue Number:** PP-OR-WOPR-09-0157-1

**Organization:** Individual

**Protester:** Elizabeth Holliday

[For a list of additional protesters see Appendix B.](#)

**Issue Excerpt Text:**

Yet the BLM failed to demonstrate how, if at all, it applied the criteria from 43 CFR 8342.1 in developing its proposal for ORV Emphasis Areas.

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**Issue Number:** PP-OR-WOPR-09-0157-3

**Organization:** Individual

**Protester:** Elizabeth Holliday

[For a list of additional protesters see Appendix B.](#)

**Issue Excerpt Text:**

BLM's Preferred Alternative proposes the establishment of several new ORV areas (termed "ORV Emphasis Areas"), but is absent any objective rationale or criteria for choosing these locations. ORV Emphasis Areas do not appear to have been selected in accordance with BLM regulation (43 CFR §8340) that require all ORV designations "be based on the protection of the resources of the public lands, the promotion of the safety of all the users of the public lands, and the minimization of conflicts among various uses of the public lands." These regulations are derived from Executive Order No. 11644 (1972) (as amended by Executive Order No. 11989 (1977)) and require the BLM to make ORV designations in its RMP process with full public participation. The regulations (43 CFR §8342.1) also direct the BLM to ensure that ORV areas and trails are located:

to minimize damage to soil, watershed, vegetation, air, or other resources of the public lands, and to prevent impairment of wilderness suitability;

to minimize harassment of wildlife or significant disruption of wildlife habitats, and especially for protection of endangered or threatened species and their habitats;

to minimize conflicts between ORV use and other existing or proposed recreational uses of the same or neighboring public lands and to ensure compatibility with populated areas, taking into account noise and other factors; and

outside officially designated wilderness areas or primitive areas and in natural areas only if BLM

determines that ORV use will not adversely affect their natural, esthetic, scenic, or other values for which such areas are established.

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**Issue Number:** PP-OR-WOPR-09-0157-4

**Organization:** Individual

**Protester:** Elizabeth Holliday

[For a list of additional protesters see Appendix B.](#)

**Issue Excerpt Text:**

The clear lack of a rationale to date in identifying OHV emphasis area represents an abdication of BLM's requirement to designate areas for OHV use with public input and in accordance with criteria contained within 43 CFR §8342.1.

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**Issue Number:** PP-OR-WOPR-09-0181-1

**Organization:** Individual

**Protester:** Steve Carlson

**Issue Excerpt Text:**

This area [Timber Mountain/John's Peak] should be closed to OHV traffic because of Executive order 11989 (1977, but still very much intact) that states that Federal land managers should close lands where 'off-road vehicles' "will cause or is causing considerable adverse effects."

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**Issue Number:** PP-OR-WOPR-09-0181-2

**Organization:** Individual

**Protester:** Steve Carlson

**Issue Excerpt Text:**

It [the Timber Mountain/John's Peak OHV area] is also in opposition to Executive order 11644 (1972, but still, also very much in effect) that states; "The use of off-road vehicles on public lands will be controlled... to protect resources. .. and minimize conflicts." (again... common sense)

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**Issue Number:** PP-OR-WOPR-09-0190-1

**Organization:** Individual

**Protester:** Elaine Wood

**Issue Excerpt Text:**

There is no criteria for BLM's decision the designate the proposed OHV Emphasis Area which violates Executive Order No. 11644 (1972 as amended by Executive Order No. 11989 (1977) and 43 C.F.R. section 8342.1. BLM does not have maps of WOPR designated OHV trails made available to the public, nor does it have funding to police OHV activity and violations;

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**Issue Number:** PP-OR-WOPR-09-0192-10

**Organization:** Forest Service Employees for

Environmental Ethics

**Protester:** Andy Stahl

**Issue Excerpt Text:**

WOPR provides no rationale explaining how BLM determined that OHV use in these special areas "will not adversely affect their natural, aesthetic, or scenic values," as required by Executive Order No. 11644 (1972), as amended by E.O. No. 11989 (1977). BLM's failure to provide any basis for concluding that OHV use will not adversely affect the values for which these special areas are managed is arbitrary. Conservation Law Foundation, Inc. v. Secretary of Interior, 864 F.2d 954, 959 (1st Cir. Mass. 1989) (ORV EO provisions "restrict the Secretary's discretion regarding ORV use").

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**Issue Number:** PP-OR-WOPR-09-0192-7

**Organization:** Forest Service Employees for Environmental Ethics

**Protester:** Andy Stahl

**Issue Excerpt Text:**

WOPR proposes to designate certainly areas for OHV use that are presently off-limits to such use, in violation of Executive Orders regulating OHV use. Comments at 16.

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**Issue Number:** PP-OR-WOPR-09-0204-27

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The BLM did not apply ORV designation criteria required by law. The PRMP proposes the designation of several new ORV areas (termed "OHV emphasis areas"), but there is no objective rationale or criteria for choosing these locations. Although the FEIS includes criteria to address the feasibility of managing proposed OHV Emphasis Areas (FEIS, Chapter 4 Recreation at 819-20), the site selection process was not conducted according to BLM's regulation (43 C.F.R. § 8342), which requires that: All (ORV) designations shall be based on the protection of the resources of the public lands, the promotion of the safety of all the users of the public lands, and the minimization of conflicts among various uses of the public lands.

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**Issue Number:** PP-OR-WOPR-09-0204-28

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The BLM's designation of OHV Emphasis Areas in the PRMP is tantamount to establishing ORV areas, the designation of which must be conducted via a

public process and only after application of the criteria found in 43 CFR § 8342.1, as listed above. Yet, via use in the PRMP of the term "OHV emphasis area" and further defining them as SRMAs, the BLM has deployed sleight of hand to avoid disclosing in the FEIS its process in selecting the location of OHV emphasis areas. Nowhere in the FEIS does the BLM describe how it applied criteria from 43 C.F.R. § 8342.1, despite written requests by us during the scoping, Analysis of the Management Situation and Draft RMP stages requesting that BLM disclose the process by which it will select the location of OHV emphasis areas.

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**Issue Number:** PP-OR-WOPR-09-0204-30

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

Not only would BLM be ignoring its mandate under 43 C.F.R. § 8342.1(c) to minimize conflicts between ORV use and other existing recreational uses of the same public lands, its designation of the Anderson Butte and other similar OHV emphasis areas would contradict BLM's mandate under the O&C Act to manage O&C lands in order to protect existing high quality recreational opportunities, as outlined in the Interior Solicitor's Memorandum at 10 (May 14, 1981). The ramifications of this and similar adverse impacts from the designation of OHV emphasis areas are potentially significant yet are not described in any detail in the FEIS.

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**Issue Number:** PP-OR-WOPR-09-0204-32

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

BLM is misinterpreting 43 C.F.R. § 8342.1 by not demonstrating the process by which it selected the location of proposed OHV emphasis areas, and by not doing so, it also fails to satisfied criteria for the minimization of OHV-related impacts and conflicts

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**Issue Number:** PP-OR-WOPR-09-0204-34

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The PRMP does not reflect these findings regarding recent regional and national trends in OHV sales and ridership and, instead, uses erroneous projections to support a working assumption that "OHV recreation will continue to increase" (FEIS, Chapter 4 - Recreation at 820). In addition, the FEIS is in error when it concludes that the BLM must provide "a moderate increase in recreation opportunities under

the PRMP to accommodate growing demand for off-highway vehicle use area (sic)" (FEIS, Chapter 4-Recreation at 820). The FEIS fails to support the designation of seven OHV emphasis areas in the Medford District alone totaling almost 68,000 acres and representing an increase of 42,379 acres of BLM land emphasizing OHV use compared to the No Action Alternative (at 25,570 acres in three OHV areas). Indeed, the PRMP would increase the amount BLM-administered land dedicated exclusively to OHV use by 266 percent despite recent and credible third-party data that demonstrate that OHV sales have plummeted nationally in recent years and that OHV ridership on public lands in Western Oregon has decreased within the past six years. Consequently, BLM's justification for the need of seven OHV emphasis areas totaling almost 68,000 acres is arbitrary and capricious.

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**Issue Number:** PP-OR-WOPR-09-0232-1

**Organization:** Individual

**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

The FEIS PRMP identifies Off-Highway Vehicle (OHV) Emphasis Areas. The BLM failed to follow its own regulations, which require that all OHV designations "be based on the protection of the resources of the public lands, the promotion of the safety of all the users of the public lands, and the minimization of conflicts among various uses..." (43 CFR § 8342.1 Designation criteria.)

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**Issue Number:** PP-OR-WOPR-09-0232-2

**Organization:** Individual

**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

Yet the BLM failed to demonstrate how, if at all, it applied the criteria from 43 CFR 8342.1 in developing its proposal for OHV Emphasis Areas.

The FEIS PRMP fails to establish or disclose the criteria on which the selection of OHV Emphasis Areas were based, in violation of 43 CFR §8342. The only disclosure of the selection criteria occurred in a newspaper article quoting the Medford District Manager: "Essentially, what we did was put in the mix the (OHV) areas being utilized now. What we want to do in order to make a reasoned choice is to look at a complete analysis -soils, water, wildlife, social issues". (Medford Mail-Tribune, October 29, 2007) The statement underscores the lack of objective criteria applied in the WOPR's EIS analysis, the selection having been made before any "reasoned" analysis was done.

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**Issue Number:** PP-OR-WOPR-09-0232-4

**Organization:** Individual

**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

The selection of Timber Mountain/Johns Peak demonstrates the BLM's failure to establish criteria and failure to do proper analysis prior to selecting OHV Emphasis Areas in the Medford District. These failures are in violation of 43 CFR §8342.1 Designation criteria.

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**Issue Number:** PP-OR-WOPR-09-0232-5

**Organization:** Individual

**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

Therefore, the BLM is derelict in its duty to uphold Executive Order 11644, specifically to "ensure that the use of off-road vehicles on public lands will be controlled and directed so as to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands." (Executive Order 11644, Section 1)

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**Issue Number:** PP-OR-WOPR-09-0232-6

**Organization:** Individual

**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

The FEIS PRMP violates 43 [CFR] §8342 by excluding stakeholders in the process. Specifically, "Prior to making designations or redesignations, the authorized officer shall consult with interested user groups, Federal, State, county and local agencies, local landowners, and other parties in a manner that provides an opportunity for the public to express itself and have its views given consideration." (43 [CFR] §8342.2 Designation procedures) Specifically, the FEIS PRMP excludes almost all stakeholders as demonstrated by the following words: "Process for ongoing public collaboration/outreach: The principal venue for public collaboration within these [Medford District ORV Emphasis] areas is through local partnership relationships with local motorcycle and 4X4 associations." (FEIS Appendices -398) Specifically excluded are: "Federal, State, county and local agencies, local landowners, and other parties". The BLM has consistently ignored local landowners and adjacent residents, and has now so acknowledged in the FEIS.

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**Issue Number:** PP-OR-WOPR-09-0233-53

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Despite comments made on the DEIS by Cascadia Wildlands, et al., on January 9, 2008, at page 147, the BLM failed in the FEIS to apply OHV designation criteria found at 43 CFR §8340 (requires OHV designations be "based on the protection of the resources of the public lands, the promotion and safety of all users of the public lands, and the minimization of conflicts among various users of the public lands.") In addition to the CFR regulations, Executive Order No. 11644 (amended by Executive Order No. 11989 (1977)) requires the BLM to make OHV designations with full public participation. It is difficult to envision how full public participation will occur when the BLM intends to defer analysis and consequent protections required by 43 CFR §8342.1 until such time as "subsequent transportation management plans are completed." Clearly that will not occur until sometime after the WOPR ROD is signed, when the window for public review and comment will have long since closed. This is a violation of CFR regulations and the BLM's own guidelines, which require management of all lands under FLPMA subject to a plan.

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**Issue Number:** PP-OR-WOPR-09-0233-54

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

This violates the regulations because it is difficult to envision how one can mitigate impacts to the environment, wildlife and other recreational users when no transportation management plan is in effect. Moreover, those certain 'interim management guidelines' were not specifically set out in the DEIS, such that the public could review and comment. Failure to have a set plan in place before the OHV use is permitted also violates NEPA §1502.16(h), which requires a discussion of means to mitigate adverse environmental impacts be made a part of the EIS process, not put together after the ROD is signed and the time for public review and comment has passed.

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**Issue Number:** PP-OR-WOPR-09-0233-57

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

In addition, the BLM failed to respond to Public Comment voiced on January 9, 2008, by Cascadia Wildlands et al. at page 148. 43 CFR §8432.1 directs the BLM to minimize damage to soil, watersheds, vegetation, air, wildlife, and conflicts with other existing recreational use. Restricting use does not



mitigate negative effects, nor does it minimize their release.

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**Issue Number:** PP-OR-WOPR-09-0233-60  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Cascadia Wildlands, et al., argued on January 9, 2008, at page 151 that given the checkerboard pattern of BLM, O&C and private lands, the proposed OHV use borders or includes portions of privately-owned properties. Such proposed use violates the BLM's requirement under 43 CFR §8342.1(c) which emphasizes "compatibility of OHV users with existing conditions in populated areas, taking into account noise and other factors ..." The FEIS did nothing to modify these impacts, which is a continuing violation of NEPA's duty to respond to comments as required in §1503 and §1502.9(b).

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**Issue Number:** PP-OR-WOPR-09-0235-11  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The EIS failed to give the public the opportunity to meaningfully comment on the OHV alternatives BLM has in mind, much less other alternatives.

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**Issue Number:** PP-OR-WOPR-09-0235-14  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

The Hubbard Creek OHV emphasis area is being increased 360 acres, from 11,681 acres to 12,041 acres without disclosure or consideration in the EIS. In fact, the EIS claims the Hubbard Creek OHV Emphasis Area under no-action alternative is 12,041 acres while the current RMP shows Hubbard Creek at 11,681 acres. The BLM cannot increase the emphasis area by 360 acres under the current RMP without NEPA analysis.

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**Issue Number:** PP-OR-WOPR-09-0235-17  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

**Issue Excerpt Text:**

A 34,013 acre area for OHVs equates to a large new OHV emphasis area. The EIS failed to consider the environmental and resource damage caused by OHV users, including illegal use. The BLM is unable to enforce legal OHV use now, so encouraging more OHV use will also expand illegal use, such as illegal new trail building, off trail riding, stream crossing

abuse, etc.

This area is designated a Late-Successional Management Area under alternative PRMP and a LSR under the no-action alternative. While non-motorized, low-impact recreation is compatible with this land designation, anew OHV emphasis area is not.

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**Issue Number:** PP-OR-WOPR-09-0255-2  
**Organization:** Individual  
**Protester:** Wayne Slawson

**Issue Excerpt Text:**

Whereas all non-motorized travel is projected, by 2016, to increase substantially over the entire planning area by about 3.65 million visitors (derived from Fig 3-141), ORV travel is projected to increase by about 0.2 million visitors during that time. Many of the nonmotorized activities are compatible, but because of noise, environmental damage, and safety issues associated with OHV use, OHVEAs will be rendered unattractive for the non-motorized use of about 3.63 million users by 2016. This means the BLM's policy to take a balanced and fair approach to recreational usage will be violated for the vast majority of visitors, particularly in the Medford District. This point was made in my previous comments, but is not addressed in the summary "Comments" and "Responses" in Appendix T.

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**Issue Number:** PP-OR-WOPR-09-0257-1  
**Organization:** Individual  
**Protester:** Carolyn Kingsnorth

**Submission Number:** PP-OR-WOPR-09-0230  
**Organization:** Individual  
**Protester:** John Duggan

**Submission Number:** PP-OR-WOPR-09-0232  
**Organization:** Individual  
**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

The FEIS RMP identifies Off-Highway Vehicle (OHV) Emphasis Areas. The BLM failed to follow its own regulations, which require that all OHV designations "be based on the protection of the resources of the public lands, the promotion of the safety of all the users of the public lands, and the minimization of conflicts among various uses..." (43 CFR § 8342.1 Designation criteria.)

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**Issue Number:** PP-OR-WOPR-09-0257-2  
**Organization:** Individual  
**Protester:** Carolyn Kingsnorth

**Submission Number:** PP-OR-WOPR-09-0230  
**Organization:** Individual  
**Protester:** John Duggan

**Submission Number:** PP-OR-WOPR-09-0232  
**Organization:** Individual  
**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

Yet the BLM failed to demonstrate how, if at all, it applied the criteria from 43 CFR 8342 in developing its proposal for OHV Emphasis Areas.

The FEIS PRMP fails to establish or disclose the criteria on which the selection of OHV Emphasis areas were based, in violation of 43 CFR §8342. The only disclosure of the selection criteria occurred in a newspaper article quoting the Medford District Manager: "Essentially, what we did was put in the mix the (OHV) areas being utilized now. What we want to do in order to make a reasoned choice is to look at a complete analysis -soils, water, wildlife, social issues". (Medford Mail-Tribune, October 29, 2007) The statement underscores the lack of objective criteria applied in the WOPR's EIS analysis, the selection having been made before any "reasoned" analysis was done.

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**Issue Number:** PP-OR-WOPR-09-0257-4  
**Organization:** Individual  
**Protester:** Carolyn Kingsnorth

**Submission Number:** PP-OR-WOPR-09-0230  
**Organization:** Individual  
**Protester:** John Duggan

**Submission Number:** PP-OR-WOPR-09-0232  
**Organization:** Individual  
**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

The selection of Timber Mountain/Johns Peak demonstrates the BLM's failure to establish criteria and failure to do proper analysis prior to selecting OHV Emphasis Areas in the Medford District. These failures are in violation of 43 CFR §8342.1 Designation criteria.

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**Issue Number:** PP-OR-WOPR-09-0257-5  
**Organization:** Individual  
**Protester:** Carolyn Kingsnorth

**Submission Number:** PP-OR-WOPR-09-0230  
**Organization:** Individual  
**Protester:** John Duggan

**Submission Number:** PP-OR-WOPR-09-0232  
**Organization:** Individual  
**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

Therefore, the BLM is derelict in its duty to uphold Executive Order 11644, specifically to "ensure that the use of off-road vehicles on public lands will be controlled and directed so to protect the resources of those lands, to promote the safety of all users of those lands, and to minimize conflicts among the various uses of those lands." (Executive Order 11644, Section 1)

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**Issue Number:** PP-OR-WOPR-09-0257-6  
**Organization:** Individual  
**Protester:** Carolyn Kingsnorth

**Submission Number:** PP-OR-WOPR-09-0230  
**Organization:** Individual  
**Protester:** John Duggan

**Submission Number:** PP-OR-WOPR-09-0232  
**Organization:** Individual  
**Protester:** Robert Kingsnorth

**Issue Excerpt Text:**

The FEIS PRMP violates 43 [CFR] §8342 by excluding stakeholders in the process. Specifically, "Prior to making designations or redesignations, the authorized officer shall consult with interested user groups, Federal, State, county and local agencies, local landowners, and other parties in a manner that provides an opportunity for the public to express itself and have its views given consideration." (43 [CFR] §8342.2 Designation procedures) Specifically, the FEIS PRMP excludes almost all stakeholders as demonstrated by the following words: "Process for ongoing public collaboration/outreach: The principal venue for public collaboration within these [Medford District OHV Emphasis] areas is through local partnership relationships with local motorcycle and 4X4 associations." (FEIS Appendices -398) Specifically excluded are: "Federal, State, county and local agencies, local landowners, and other parties". The BLM has consistently ignored local landowners and adjacent residents, and has now so acknowledged in the FEIS.

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## ***Summary***

In identifying OVH Emphasis Areas, the BLM failed to follow its own regulations at 43 CFR 8342.1 and failed to follow the National Management Strategy for Motorized OHV Use on Public Lands (Jan 2001). The OHV Emphasis Areas are in violation of Executive Order 11644 and Executive Order 11989. Further, the BLM failed to disclose the criteria used to select OHV Emphasis Areas.

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## ***Response***

As part of the Western Oregon Plan Revision PRMP/FEIS, the BLM identified OHV Emphasis Areas where off-highway vehicle use is currently more concentrated and therefore management concerns occur. The BLM has determined that more intensive management is typically needed in these areas. The PRMP/FEIS could have been clearer in distinguishing OHV Emphasis Areas from Special Recreation Management Areas (SRMAs). The OHV Emphasis Areas are sub-area designations that were developed to distinguish them from SRMAs (PRMP/FEIS at 3-418). In addition to route designation through the travel planning process, SRMAs with OHV use will have specific management guidelines identified for other recreation opportunities, experiences, and benefits for visitors (PRMP/FEIS Appendix K at 400 to 438).

The identification of OHV Emphasis Areas and SRMAs themselves do not allow or prevent off-highway vehicle use. The use is only determined through the broader designations of open, limited, and closed (PRMP/FEIS at 3-418). In accordance with 43 CFR 8342.1, the authorized officer shall designate all public lands as either open, limited, or closed to off-road vehicles. All designation shall be based on the protection of the resources of the public lands, the promotion of the safety of all users of the public lands, and the minimization of conflicts among various uses of the public lands. All OHV Emphasis Areas in the planning area are located within the off-highway vehicle designation of "limited" to designated roads and trails (PRMP/FEIS at 2-61).

The PRMP/FEIS is consistent with the National Management Strategy for Motorized OHV Use on Public Lands and other BLM national policy directives addressing OHV and comprehensive travel management. The PRMP/FEIS does not address on-the-ground implementation and designation of trails within OHV emphasis areas. The PRMP/FEIS provides OHV management guidelines that would be implemented until subsequent transportation management plans are completed. The interim guidelines have been developed at the district level for OHV emphasis areas (PRMP/FEIS Appendix K at 388). Through the PRMP/FEIS, the BLM has proposed areas to be open, limited, or closed to motorized use. The proposed OHV emphasis areas will be managed by the BLM specifically to protect natural and cultural resources and public safety as well as limit user conflicts (PRMP/FEIS at 3-417 and Appendix K at 387 to 399).

Site-specific travel route designations will be analyzed through transportation management planning and NEPA processes tiered to the PRMP/FEIS. These planning processes would include design and designations to promote safety, reduce user conflicts, and minimize damage to soil, watersheds, vegetation, air, and other resources (PRMP/FEIS Appendix K at 387 to 399). Amendments to the designated system will be considered during the transportation management planning process.

The transportation management planning and associated NEPA process will consider resources and safety and determine how conflicts will be minimized (PRMP/FEIS at 4-819) in compliance with Executive Order 11644 as amended by Executive Order 11989, Section 3 (a)(3) where it states that “Areas and trails shall be located to minimize conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring public lands, and to ensure the compatibility of such uses with existing conditions in populated areas, taking into account noise and other factors.” Adequate opportunities for public participation in the designation of areas and trails will be provided in compliance with Executive Order 11644 (Section 3 (b)) (see also 43 CFR 8342.1).

Land use plan-level analyses, such as the PRMP/FEIS, are typically broad and qualitative rather than quantitative or focused on site-specific actions. Final route designations for the districts will be accomplished in comprehensive, interdisciplinary travel and transportation management plans for OHV Emphasis Areas and SRMAs are scheduled to be completed no later than 5 years after the RMP revision (PRMP/FEIS at Appendix K at 388 to 389). Proposed designations will be analyzed through public scoping and site specific NEPA analysis. Amendments to the designated system will be considered during the transportation management planning process. These future NEPA processes will consider resources and safety and determine how conflicts will be minimized (PRMP/FEIS at 4-819) in compliance with Executive Order 11644 as amended by Executive Order 11989, Section 3 (a)(3).

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### *Off-Highway Vehicle Open Areas*

**Issue Number:** PP-OR-WOPR-09-0192-9  
**Organization:** Forest Service Employees for Environmental Ethics  
**Protester:** Andy Stahl

**Issue Excerpt Text:**

We hereby protest WOPR's decision to open to OHV use the following areas previously closed to such use: Larch Mountain EEA, Little Grass Valley ACEC, Alter Glen, Dove Creek, and Fan Creek Recreation Sites, Molalla River Non-Motorized Trail System (portions thereof), North Santiam ACEC, Raymond

Creek Bald Eagle Roost Area, Sheridan Peak ACEC, Soosap Meadows ACEC (portion thereof), White Rock Fen ACEC, Coburg Hills Relic Forest Island ACEC, Collard Dune (portion thereof), Cougar Mountain Yew Grove ACEC, Dorena Lake RFI ACEC, Grassy Mountain ACEC (portion thereof), Lorane Ponderosa Pine ACEC (portion thereof), French Flat ACEC (portion thereof), Pacific Crest National Scenic Trail Corridor (portion thereof), Pilot Rock ACEC, and Rogue Wild and Scenic River Corridor (portion thereof).

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### *Summary*

The Western Oregon Plan Revision proposes to designate certain areas for OHV use that are presently off-limits to such use in violation of Executive Orders regulating OHV use.

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### *Response*

To clarify, not all ACECs referenced by the protester will be maintained as ACECs under the Proposed RMP, such as Pilot Rock (PRMP/FEIS Table 2-65 at 2-184).

The PRMP changes the designation of these areas (listed by protester) from “closed” to “limited” to designated roads and trails (PRMP/FEIS Table 2-28 and 2-29 at 2-92 to 2-97). The individual BLM districts will complete travel management plans and site-specific analyses, taking into account the important and relevant values of the individual ACECs. Under the "limited" designation, only existing designated roads and trails would be accessible to OHVs.

For additional information, please refer to the response for "OHV Emphasis Areas-Regulations and Policies."

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### *Off-Highway Vehicle Staging Areas and Trail Heads*

**Issue Number:** PP-OR-WOPR-09-0235-10  
**Organization:** Umpqua Watersheds  
**Protester:** Francis Eatherington

Informally, the BLM told me a trailhead is smaller, but still includes "parking, a restroom and bulletin board".

**Issue Excerpt Text:**

The DEIS also failed to define an OHV "staging area" and OHV "trailhead". We asked for the FEIS to define these terms, but it also failed to do so.

With no definitions and no maps, it is impossible for the BLM to adequately consider the impacts of OHV staging areas, trailheads and play areas.

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### *Summary*

The PRMP/FEIS failed to define an OHV "staging area" and an OHV "trailhead." With no definitions and no maps, it is impossible for the BLM to adequately consider the impacts of OHV staging areas, trailheads, and play areas.

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### *Response*

The OHV staging areas, trailheads, and play areas are general terms used to describe formally or informally developed or designated sites that support off-highway vehicle use. Because of their variability, there is no set definition of what specific attributes or facilities are present at these sites. The PRMP/FEIS lists many existing (PRMP/FEIS Table 2-20 at 2-76 to 2-79) and potential (PRMP/FEIS Table 2-22 at 2-82 to 2-84) sites that were analyzed for development. The OHV play areas and OHV Emphasis Areas would be managed according to interim management guidelines until subsequent comprehensive travel management plans are completed.

During subsequent transportation planning efforts, individual BLM districts will analyze route designations and will gather information on needed support facilities including the appropriate size and location needed for staging areas and trailheads (PRMP/FEIS at 2-61 to 2-62 and Appendix K at 387). The BLM will then analyze the environmental impacts of those designations and sites in an interdisciplinary travel and transportation management plan scheduled to be completed no later than 5 years after completion of the RMP revision. The site-specific environmental impacts of any future OHV staging area and trailhead development will be considered as part of the site-specific planning process for the individual OHV use areas.

These activity plan-level analyses will tier to the RMP and expand the environmental analysis when more specific information is known. In addition, as required by NEPA, the public will be offered the opportunity to participate in the NEPA process for these specific actions.

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## Water

### *Aquatic Conservation Strategy*

**Issue Number:** PP-OR-WOPR-09-0008-25

**Organization:** Individual

**Protester:** John Phillips

[For a list of additional protesters see Appendix A.](#)

**Issue Excerpt Text:**

By reducing riparian protections and the Aquatic Conservation Strategy, the PRMP will increase the risk of extinction of the listed salmon in violation of the Endangered Species Act.

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**Issue Number:** PP-OR-WOPR-09-0192-8

**Organization:** Forest Service Employees for Environmental Ethics

**Protester:** Andy Stahl

**Issue Excerpt Text:**

We hereby protest WOPR's decision to eliminate the Aquatic Conservation Strategy ("ACS") and to lessen Northwest Forest Plan watershed protection measures, e.g., width of stream buffers.

BLM has violated NEPA by failing to explain why the ACS is no longer necessary to avoid jeopardy to and provide for the recovery of threatened and

endangered fish species, e.g., Lower Columbia River chinook, Upper Willamette River chinook, Southern Oregon/Northern California coho, Lower Columbia River coho, Oregon Coast coho, Lower Columbia River chum, Lower Columbia River steelhead, Upper Willamette steelhead, Shortnose suckers, Lost River suckers, Bull Trout, and Oregon Chub.

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**Issue Number:** PP-OR-WOPR-09-0233-47

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The issue was raised in comments that the existing Total Maximum Daily Loads anticipated that public lands would be managed following the guidelines set out in the Northwest Forest Plan. Indeed, the TMDL Implementation Strategy equates compliance with the Aquatic Conservation Strategy (ACS) of the Northwest Forest Plan with compliance with the temperature TMDLs. TMDL Implementation Strategy at 6, 15. The ACS was designed to restore and maintain the ecological health of watersheds within the area inhabited by the Northern Spotted Owl. USDA, NWFP Standards and Guidelines 1994.

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## *Summary*

The BLM has violated NEPA by failing to explain why the Aquatic Conservation Strategy (ACS) is no longer necessary to comply with the Endangered Species Act and the Clean Water Act.

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## *Response*

The Aquatic Conservation Strategy (ACS) is a component of the Northwest Forest Plan (NWFP). The ACS and the NWFP are neither statutes nor regulations. As such, the PRMP is not required to comply with ACS. Furthermore, the ACS, as defined under the NWFP, does not confer any water quality standard. Nevertheless, the BLM must demonstrate that the proposed actions and expected outcomes of the PRMP comply with the Clean Water Act and Endangered Species Act.

Even though the PRMP is not required to comply with the ACS, the resource elements of that

strategy will be protected under the PRMP. Similar to the NWFP, the PRMP establishes riparian management areas with the following objectives: provide for the conservation of species; provide for shade, sediment filtering, leaf litter, and large wood as well as streambank stability; maintain and restore water quality; and maintain and restore aquatic access (PRMP/FEIS at 2-32 to 2-37).

The FEIS addresses expected consequences of the proposed actions on these riparian management area objectives. The FEIS (PRMP/FEIS at 4-780 and 4-784) concluded that large wood inputs would increase under all alternatives; sediment delivery would not increase by more than 1 percent and, therefore, would be below the threshold for measurable effects to fish (PRMP/FEIS at 4-799); and streamside shade would be maintained and would not affect water temperature. All alternatives would provide for riparian and aquatic conditions that supply stream channels with shade, sediment filtering, leaf litter, large wood and stream bank stability. Chapter 4 (PRMP/FEIS at 4-756 and 4-801) found that the alternatives would not have any substantial effects on the susceptibility of watersheds to peak flow increases. Further, riparian vegetation structure would increase over time (PRMP/FEIS at 4-797). In addition, the application of Best Management Practices to future implementation actions would limit or avoid delivery of sediment to water bodies (PRMP/FEIS Appendix I at 268 to 318). Therefore, water quality for instream beneficial uses including source water protection would be protected under the PRMP in compliance with the Clean Water Act (PRMP/FEIS at 4-778; Appendix I at 268). The FEIS also concluded that the riparian and aquatic conditions that affect fish productivity would improve from current conditions under the PRMP (PRMP/FEIS at 4-801 to 4-802). Therefore, there would not be an increased risk of jeopardy or extinction of listed fish species associated with the PRMP.

The PRMP contains other components and methodologies that are similar to the ACS. For example, similar to the methodology used to identify unstable areas under the NWFP Riparian Reserves, landforms identified as susceptible to mass wasting have been withdrawn from management activity under the PRMP utilizing the BLM Timber Productivity Capability Classification (PRMP/FEIS at 3-347). In addition, the PRMP (PRMP/FEIS at 4-802 to 4-803) includes aquatic restoration to improve habitat and ecological integrity, similar to the aquatic restoration component included in the ACS. Instream restoration will focus on streams of high intrinsic potential because, similar to the intent of key watersheds under the ACS, these streams have a greater potential to provide high-quality salmonid habitat (PRMP/FEIS at 4-803). The PRMP/FEIS analysis determined that this instream restoration emphasis will be even more effective than the actions under the NWFP (PRMP/FEIS at 4-803). Also, improved fish passage, road restoration, and habitat enhancement would effectively improve aquatic habitat for fish (PRMP/FEIS at 4-802 to 4-803).

In addition to Riparian Management Areas established to protect aquatic conditions and habitat, the PRMP includes the National Landscape Conservation System designations of Wild and Scenic Rivers, Wilderness Areas, congressionally designated lands, and ACECs (PRMP/FEIS at 2-25 to 2-28). Similar to several objectives in the ACS, these land designations are intended to conserve, protect, and restore the cultural, ecological, and scientific values of the landscape. The PRMP/FEIS at 5-867 to 5-868 provides a strategy to ensure protection of water quality. At the site- or watershed-level the BLM, as a Designated Management Agency and in compliance with Oregon Administrative Rule 42, will develop in coordination with Oregon Department of Environmental Quality (DEQ) water quality restoration plans as a vehicle for achieving Total

Maximum Daily Load objectives (PRMP/FEIS at 5-868).

Through water quality protections at the plan level and in coordination with DEQ at the watershed level, the PRMP is in compliance with the anti-degradation standard (Oregon Administrative Rules-340-041-0004) as required under the Clean Water Act (PRMP/FEIS Appendix I at 319). Similarly, the riparian and aquatic strategy in the PRMP protects water quality and maintains and improves aquatic habitat to fulfill the BLM's obligation to comply with the Endangered Species Act.

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### *Blowdown in Riparian Reserves*

**Issue Number:** PP-OR-WOPR-09-0233-44  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The WOPR FEIS also fails to consider the impact of blow-down in riparian reserves. If the PRMP will allow clearcutting closer to the streams, it must

account for the possibility that trees in Riparian Reserves could suffer from increased blow-down when they are adjacent to recently cut areas. The effectiveness of Riparian Reserves after a blow-down event is substantially compromised. The failure to consider this fact, and the failure to respond to this raised concern in the FEIS, violates NEPA

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### *Summary*

The Western Oregon Plan Revision FEIS fails to consider the impact of blowdown in riparian reserves.

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### *Response*

Under the PRMP, the Riparian Management Area (or riparian reserve) width would extend beyond the primary and secondary shade zones. The additional width of the Riparian Management Areas would provide less than a 5 percent increase in effective shade beyond the shade provided within 100 feet of streams. However, the additional width would provide a buffer against natural tree mortality from blowdown that could affect stream shading. Steinblums et al. (1984) found that a riparian buffer of at least 120 feet from streams would maintain stream shading even where blowdown occurs. Under the PRMP, the Riparian Management Areas would extend 120 feet and beyond from streams and, therefore, would maintain stream shading even where blowdown occurs (PRMP/FEIS at 4-760). As such, the FEIS does not specifically consider the impacts of blowdown in the Riparian Management Areas.

For additional information on the impact analysis used in the Western Oregon Plan Revision PRMP/FEIS, please refer to the response for "Impact Analysis."

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## *Riparian Management Areas*

**Issue Number:** PP-OR-WOPR-09-0144-25

**Organization:** Individual

**Protester:** Hope Robertson

**Issue Excerpt Text:**

No Scientific Basis for Decreasing the size of Riparian Corridors areas:

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**Issue Number:** PP-OR-WOPR-09-0233-40

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The BLM fails to explain how its Riparian Management under the WOPR will not further impair waters of the state. Rather than substantively addressing the concerns raised in comments, the BLM simply reasserted the studies it relied on in the FEIS and DEIS, and made similar sweeping generalizations about the WOPR's impact. Specifically, the BLM fails to convince that the significantly reduced Riparian Management Areas will still comply with all applicable TMDLs, fails to affirmatively demonstrate that its actions will not further degrade the waters of the state that are already 303(d) listed for temperature, and fails to provide adequate, accurate science supporting its conclusions that the change in management will not affect water temperature.

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### *Summary*

The PRMP/FEIS provides no scientific basis for decreasing Riparian Management Area widths.

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### *Response*

The FEIS documents the science used to design the Riparian Management Areas (RMAs) (PRMP/FEIS at 3-336 to 3-339). The RMAs, in terms of buffer width, tree height, and density, are designed to meet the anti-degradation standard for water temperature (Oregon Administrative Rules 340-041-0028). The Oregon Department of Environmental Quality requires that project activities meet the stream temperature anti-degradation policy (Oregon Administrative Rules Ch. 340, Div. 041) in order to comply with Sections 303(d) and 319 of the Clean Water Act. The BLM's method to assess changes to water quality addresses the Northwest Forest Plan Temperature Total Maximum Daily Load Implementation Strategies (2005), results from the shadow model and heat source model, as well as research (Brazier and Brown (1973), Steinblums et al. (1987)) to determine riparian buffer widths needed to maintain stream shade

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**Issue Number:** PP-OR-WOPR-09-0233-43

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The proposed alternative sacrifices the riparian reserves which will lead to increased water temperatures and decreased listed fish populations in violation of the ESA. See Cascadia Wildlands, et al., public comment dated January 9, 2008, at page 44.

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**Issue Number:** PP-OR-WOPR-09-0233-50

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Not only are the BLM's blanket assumptions about effective shade across a diverse landscape not accurate, their conclusion that 50% effective shade would only increase temperature by .2 degrees F is unsupported. Their model does not account for local geology, geography, soils, climate, legacy impacts, natural disturbance rates and other factors that may prevent effective shade from having the temperature-reduction impacts presented in effective shade curves. Umpqua TMDL, 3-32. The BLM does not consider these other factors at all.

(PRMP/FEIS at 3-337 to 3-338; Appendix I at 250 to 252). Model methodology and assumptions are included in PRMP/FEIS Appendix I at 250 to 253. This analysis concluded that a 60-foot buffer will maintain primary shade and a 100-foot buffer will maintain secondary shade (PRMP/FEIS at 4-759 to 4-764). The riparian shade analysis (PRMP/FEIS at 4-759 to 4-764) found that the alternatives would avoid any measurable effect on water temperature due to riparian management buffers (PRMP/FEIS at 4-759).

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### *Root Rot Impacts to Water Quality*

**Issue Number:** PP-OR-WOPR-09-0260-7

**Organization:** Individual

**Protester:** Bruce Campbell

I found no mention of POC, including no response to my concern that the SHADOW stream temperature model does not account for the impact of spreading POC root rot and repercussions of that on stream shade and temperature

**Issue Excerpt Text:**

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#### *Summary*

The FEIS fails to analyze impacts to water quality from streamside vegetation loss stemming from Port Orford cedar root rot.

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#### *Response*

The PRMP/FEIS conclusions from 4-759 to 4-764 "do not include riparian areas along waterbodies with infected or infested Port Orford cedar forest stands" (PRMP/FEIS at 4-764). However, the PRMP/FEIS does address impacts to stream temperature from Port Orford cedar mortality at 4-764 by incorporating by reference the Final Supplemental Environmental Impact Statement (FSEIS) on Management of Port Orford Cedar in Southern Oregon 2004. The PRMP/FEIS cited and summarized this FSEIS, concluding with the FSEIS's determination that for small and large watersheds, the worst case temperature increases would be 0.9-2.2 degrees Fahrenheit per mile, in instances where the first 15 feet of the streamside stand is completely killed.

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### *Water Quality Restoration Plans*

**Issue Number:** PP-OR-WOPR-09-0233-42

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

Prior to preparing the WOPR, the Oregon Department of Environmental Quality (DEQ), BLM, and Forest Service all entered into a Memorandum of Understanding (MOU) for a Water Quality Restoration Plan (WQRP) to ensure water quality standards were met by using best management

practices (BMPs) and aquatic conservation strategies. The WQRP relies on the BLM's previous adherence to the guidelines set forth therein, as well as the ACS objectives and the riparian reserve system. WOPR's proposed alternative violates this MOU because the proposed alternative sacrifices the Riparian Reserve widths, which will lead to increased water temperature, higher Total Maximum Daily Loads (TMDLs), and decreases in ESA-listed fish populations. See Cascadia Wildlands, et al., public comment dated January 9, 2008, at pages 47-49.

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**Issue Number:** PP-OR-WOPR-09-0233-49  
**Organization:** Cascadia Wildlands Project  
**Protester:** Daniel Kruse

**Issue Excerpt Text:**

In its Response to Comments, BLM asserts that the WOPR will not significantly impact to drinking water or aquatic species, or further 303(d) impairment because Water Quality Restoration Plans coordinated by the BLM and the DEQ would be followed where

Total Maximum Daily Loads and wasteload allocations have been determined. App Tat 824. At the same time, BLM states that it is working with DEQ to update its Water Quality Restoration Plans (WQPRs) to reflect the management prescriptions of the WOPR. App Tat 845. The BLM can't have it both ways -either it is going to protect water quality by following the pre-existing TMDLs, an WQPRs, or it will affect it, at the very least on a localized level, by adopting the WOPR and amending its WQPRs to provide less protection.

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***Summary***

The BLM needs to adhere to State Water Quality Restoration Plans and provide updates that reflect the Western Oregon Plan Revision.

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***Response***

The State of Oregon Administrative Rule 42 (February 13, 2004) requires designated management agencies to participate in developing Total Maximum Daily Loads (TMDL) and in preparing and implementing TMDL implementation plans. The BLM participates in TMDL development and creates Water Quality Restoration Plans (WQRP) as a vehicle for achieving TMDL compliance objectives on BLM administered lands.

The Oregon Department of Environmental Quality advises that in most instances, it would be adequate to wait for the next 5-year review of a TMDL implementation plan to revise it to reflect changes resulting from the Western Oregon Plan Revision (ODEQ 2007). At that time, the previously completed TMDL plans that include BLM-administered lands would be updated to reflect the Western Oregon Plan Revision according to Department of Environmental Quality's TMDL review schedule (PRMP/FEIS at 5-868). Similarly, consistent with the Memorandum of Agreement between the BLM and Department of Environmental Quality, the WQPRs and TMDLs will be revised as necessary based on new information, monitoring results, or changes to resource management plans.

Although the PRMP modified existing riparian buffers, the BLM expects that water quality will be maintained or improved under the PRMP (PRMP/FEIS at 4-759 to 4-760) and that it will meet its responsibilities and commitments under for achieving TMDL objectives under WQRP relevant to BLM administered lands.

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***Wild and Scenic Rivers***

**Issue Number:** PP-OR-WOPR-09-264-30  
**Organization:** Klamath-Siskiyou Wildlands Center  
**Protester:** Joseph Vaile

**Issue Excerpt Text:**

The BLM will be violating the Wild and Scenic Rivers Act, by impairing existing, suitable and potential Wild and Scenic Rivers. The BLM needs an accounting of all the eligible Wild and Scenic Rivers

and explain what impacts the WOPR would have on these rivers.

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### ***Summary***

The BLM will violate the Wild and Scenic Rivers Act by impairing existing, suitable, and eligible Wild and Scenic Rivers. The BLM has not accounted for all of the eligible Wild and Scenic Rivers or disclosed the impacts of the Western Oregon Plan Revision on these rivers.

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### ***Response***

The eligibility determinations and suitability studies for all potential Wild and Scenic Rivers in the planning area were completed as part of each of the BLM's 1995 District Resource Management Plans. New eligibility determinations and suitability studies would only occur if the BLM were to acquire additional acreage along potentially eligible rivers that warrant further study (PRMP/FEIS Appendix T at 849). Designated, suitable, and eligible Wild and Scenic River segments are identified in Chapter 2 (PRMP/FEIS at 2-100 to 2-103).

As described in Chapter 2 of the PRMP/FEIS (PRMP/FEIS at 2-25), designated wild and scenic river corridors (including those classified as wild, scenic, or recreational) would be managed to protect their outstanding remarkable values (refer to Table 2-33 at 2-100 for list of designated segments). Interim protection would be provided to wild and scenic river corridors (including those classified as wild, scenic or recreational) that are suitable for inclusion as components of the National Wild and Scenic Rivers System until Congress makes a decision to designate them (refer to Table 2-34 at 2-101 for list of suitable segments). Interim protection would also be provided to wild and scenic river corridors (including those classified as wild, scenic or recreational) that are eligible but have not yet been studied for suitability as components of the National Wild and Scenic Rivers System pending suitability evaluations (refer to Table 2-35 at 2-102 to 2-103 for list of eligible segments). Management for each of these classifications would be consistent with BLM Manual 8351-Wild and Scenic Rivers-Policy and Program Direction for Identification, Evaluation, and Management (December 1993).

Impacts to Wild and Scenic Rivers associated with the PRMP are described in Chapter 4 (PRMP/FEIS at 4-835). As discussed, under all alternatives, limited timber harvesting would be allowed within designated, suitable, and eligible wild and scenic river corridors that are classified as scenic or recreational if designed to have either a positive or neutral effect on a river segment's classification and outstandingly remarkable values. Harvesting would be done in a manner that would not impair the segment's free-flowing character, classification, or identified outstandingly remarkable values. There are 72 river segments (classified as scenic or recreational) on BLM-administered lands in the planning area totaling 53,357 acres. These river segments have different combinations of outstandingly remarkable values that overlay site-specific conditions, each of which requires unique management considerations to guarantee their protection. Because of this all wild and scenic river corridors are excluded from the harvest land base under each of the alternatives. The BLM has determined that the proposed management actions in the PRMP/FEIS would result in the protection of all designated, suitable, and eligible wild and scenic rivers under all alternatives (PRMP/FEIS at 4-835).

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## Wilderness

**Issue Number:** PP-OR-WOPR-09-0204-35

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS fails to adequately assess the wilderness characteristics of the land subject to WOPR by using a definition of wilderness characteristics that is inconsistent with BLM's own guidance. The FEIS also fails to provide the public with sufficient information regarding its review of wilderness proposals, and its review of these proposals has been inadequate. Finally, the FEIS is internally inconsistent as to the number of acres that will be managed to maintain wilderness characteristics, making it impossible for the public to understand or comment on this decision.

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**Issue Number:** PP-OR-WOPR-09-0204-36

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

the FEIS fails to provide the public with sufficient information regarding its review of each of the 146 wilderness proposals it received. While the agency claimed that it engaged in an evaluation of all 146 proposals submitted, the details of the review and the results of the evaluation were not presented in the DEIS. Moreover, BLM's undisclosed evaluations of these proposals have not been sufficiently thorough or accurate, and have found that certain areas lack wilderness characteristics despite the fact that wilderness characteristics are present. We obtained Evaluation Forms and Planning Forms through a Freedom of Information Act request and confirmed that, as discussed from preliminary reviews at the time of the DEIS, these forms do not show a consistent, accurate process - reaching different conclusions after similar descriptions - and not evidencing an actual reinventory, as required by policy and law.

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**Issue Number:** PP-OR-WOPR-09-0204-38

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The BLM's refusal to consider protection of wilderness characteristics is inconsistent with both the O&C Act and NEPA's requirement to consider a reasonable range of alternatives. A full range of

alternatives must be presented to the public and considered by the agency.

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**Issue Number:** PP-OR-WOPR-09-0204-40

**Organization:** Earthjustice

**Protester:** Kristen Boyles

**Issue Excerpt Text:**

In the FEIS and PRMP, BLM has failed to recognize or inventory the wide range of values associated with lands with wilderness character, including scenic values, recreation, wildlife habitat, riparian areas, and cultural resources, as well as manage for a balanced use of the lands and resources. While the FEIS does include a discussion of the impacts of the WOPR on wilderness characteristics, see FEIS at 4-827 to 4-830, the FEIS only considers the impact of the WOPR on wilderness areas that possess a number of characteristics, including sufficient size. See FEIS at 4-827. By so limiting its consideration of wilderness characteristics, BLM has failed to consider and inventory the value of the public lands, in violation of FLPMA and its implementing regulations.

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**Issue Number:** PP-OR-WOPR-09-0233-51

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

In review of the DEIS Executive Summary, Chapter 2, Table 22; Chapter 3 Table 125 and Chapter 4 Table 219, the acreage of lands with wilderness characteristics to be managed varies from as few as 4,435 acres to as many as 13,637 acres. Under 40 CFR §1500.1(b), NEPA requires that information provided to the public be accurate, so that the public may scrutinize and provide comment. See *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). See public comment from Cascadia Wildlands, et al., dated January 9, 2008, at pages 80-81. Without an accurate number, the public cannot adequately review and provide meaningful comment. This comment was not addressed in the FEIS, which is a violation of NEPA regulations requirement of responses to comments (40 CFR §1502.9(b)).

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**Issue Number:** PP-OR-WOPR-09-0233-52

**Organization:** Cascadia Wildlands Project

**Protester:** Daniel Kruse

**Issue Excerpt Text:**

The BLM must assess wilderness qualities regardless of whether they believe that the areas are exempt from review. See *Portland Audubon Society v. Lujan* 998 F.2d 705, 709 (1993), holding that NEPA applies to "all government actions having significant environmental impact." Moreover, reliance by the BLM on a one-time inventory is "not consistent with its statutory obligation to engage in a continuing inventory so as to be current on changing conditions and wilderness values." See ONDA and 43 USC §1711(a).

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**Issue Number:** PP-OR-WOPR-09-264-16  
**Organization:** Klamath-Siskiyou Wildlands Center  
**Protester:** Joseph Vaile

**Issue Excerpt Text:**

FLPMA has also been construed to impact BLM's wilderness review obligations for O&C lands. Under FLPMA, BLM has an obligation to conduct a wilderness study review of roadless areas that have 5,000 acres or more and wilderness characteristics. 43 U.S.C. § 1782(a). As was demonstrated in our comments, there are clearly areas that meet these criteria in western Oregon but that the BLM refuses to manage as wilderness study area. The review should have occurred by the end of 1991.

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**Issue Number:** PP-OR-WOPR-09-264-18  
**Organization:** Klamath-Siskiyou Wildlands Center  
**Protester:** Joseph Vaile

**Issue Excerpt Text:**

The BLM has refused to consider and disclose the impacts of the WOPR on the roadless areas in western Oregon.

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**Issue Number:** PP-OR-WOPR-09-264-20  
**Organization:** Klamath-Siskiyou Wildlands Center  
**Protester:** Joseph Vaile

**Issue Excerpt Text:**

While the BLM may not recognize or place value on the existence of roadless forested areas, the BLM has a duty to analyze proposals to protect the area as a WSA. No such alternative is included in the DEIS.

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**Issue Number:** PP-OR-WOPR-09-264-22  
**Organization:** Klamath-Siskiyou Wildlands Center  
**Protester:** Joseph Vaile

**Issue Excerpt Text:**

The BLM cannot claim that an inventory performed decades ago constitutes an appropriate look at the wilderness characteristics today. The BLM must conduct new inventories.

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***Summary***

The PRMP/FEIS's insufficient consideration and analysis of wilderness characteristics violates law.

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***Response***

The BLM's authority to designate additional lands as Wilderness Study Areas (WSAs) pursuant to FLPMA Section 603 expired on October 21, 1993, as affirmed in the settlement agreement from *Utah v. Norton*. Any remaining authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712). This section of the BLM's organic statute gives the Secretary of the Interior authority to manage public lands for multiple use and sustained yield. Nothing in this section constrains the Secretary's authority to manage lands as necessary to "achieve integrated consideration of physical, biological, economic, and other sciences" (43 U.S.C. §1712(c)(2)).

However, for those tracts of land that have been dedicated to specific uses according to any other provision of law, such as the O&C Act, the FLPMA directs that they shall be managed in accordance with such law (43 U.S.C. §1732(a)). Therefore, because the O&C Act expressly directs that O&C lands be managed to supply timber, protect watersheds, regulate stream flow, contribute to the economic stability of local communities, and provide recreational facilities, these lands cannot be managed as wilderness study areas.

The BLM Land Use Planning Handbook (H-1601-1) directs BLM to “identify decisions to protect or preserve wilderness characteristics (naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation)” and to “include goals and objectives to protect the resource and management actions necessary to achieve these goals and objectives. For authorized activities, include conditions of use that would avoid or minimize impacts to wilderness characteristics.” In addition, the BLM policy concerning analysis of wilderness characteristics in a PRMP/FEIS is outlined in Instruction Memorandum No. 2003-275, Consideration of Wilderness Characteristics in Land Use Plans. Consistent with this guidance, the PRMP/FEIS analyzed naturalness, outstanding opportunities for solitude, and outstanding opportunities for primitive and unconfined recreation in determining whether wilderness characteristics were present in the planning area.

The BLM may accord management protection for special resource values, including wilderness characteristics, through the land use planning process by designating Areas of Critical Environmental Concern and Special Recreation Management Areas to the extent such designations, “would not conflict with sustained yield forest management in areas dedicated to timber production.” (PRMP/FEIS at 1-11). In all action alternatives of the PRMP/FEIS, approximately 8,248 acres would have special management to maintain the wilderness characteristics (PRMP/FEIS Table 4-98 at 4–827).

The BLM established a five-step wilderness evaluation process that included a review of past wilderness inventories, an evaluation of all public wilderness proposals, and a screening of public wilderness proposals that overlap with O&C lands. The evaluation process then determined if proposed management would be applied to selected lands with wilderness characteristics and analyzed the effects of the alternatives on those wilderness characteristics (PRMP/FEIS Appendix L at 440 to 442). This review of past wilderness inventories included an evaluation of whether public wilderness proposals contained any new information not considered as part of the original inventories (PRMP/FEIS Appendix L at 441).

In addition, the PRMP/FEIS clarified that, consistent with the Wilderness Act (16 U.S.C. 1131-1136), 5,000 acres is the minimum acreage necessary to consider analysis of wilderness characteristics (PRMP/FEIS at 3-422). The 5,000-acre minimum includes consideration of BLM lands with less than 5,000 acres that adjoin an administrative boundary of a US Forest Service roadless area, resulting in the combined acreage of the two areas at or above the minimum 5,000 acres required (PRMP/FEIS Appendix L at 440).

While there is no requirement that the lands have all of the potential wilderness characteristics in order to merit protection, the BLM appropriately used those characteristics for assessing areas as suitable for protection. The FLPMA designates the areas to be assessed as Wilderness Study Areas as, “those roadless areas of five thousand acres or more ... identified during the inventory required by section 201(a) of this Act as having wilderness characteristics described in the Wilderness Act” (43 U.S.C. §1782 (a)). The Wilderness Act, in turn, defines a wilderness using four conditions, one of which is: “(3) has at least five thousand acres of land or is of sufficient size as to make practicable its preservation and use in an unimpaired condition.”

Last, the BLM considered a reasonable range of alternatives for wilderness in the PRMP/FEIS in

full compliance with the NEPA. The CEQ regulations (40 CFR § 1502.1) require that the BLM consider reasonable alternatives, which would avoid or minimize adverse impacts or enhance the quality of the human environment. While there are many possible alternatives or actions, the BLM used the scoping process to determine a reasonable range of alternatives. The BLM determined that reasonable range of alternatives for lands with wilderness characteristics is limited by the application of the O&C Act because the BLM can only manage O&C lands outside wilderness study areas for wilderness characteristics where such management will not conflict with sustained yield forest management in areas dedicated to timber production. Based on this description, the range of alternatives for wilderness are sufficient to comply with the requirements of the NEPA.

As discussed, the BLM has adequately considered wilderness characteristics, including areas of less than 5,000 acres for special management based on the requirements of NEPA, FLPMA, and the O&C Act (PRMP/FEIS Tables 4-98 to 4-101 at 4-827 to 4-829). Most of BLM's ownership in western Oregon consists of 1-mile square sections (i.e. squares 640 acres in size), in a checkerboard ownership pattern interspersed primarily with lands managed by private ownership for industrial forest operations; this is not conducive to wilderness characteristics.

For additional information on Wilderness Study Areas, please refer to the response for 'Wilderness Study Areas' below.

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### *Wilderness Study Areas*

**Issue Number:** PP-OR-WOPR-09-0204-37  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

BLM violated NEPA when it failed to consider and fully analyze an alternative that would designate new wilderness study areas ("WSAs") pursuant to the agency's broad authority under 43 U.S.C. § 1712.

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**Issue Number:** PP-OR-WOPR-09-0204-39  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

This guidance [IM 2003-274 and IM 2008-275] does not limit its application to lands suitable for

designation of WSAs; for instance, the guidance does not include a requirement for the lands at issue to generally comprise 5,000-acre parcels or a requirement that the lands have all of the potential wilderness characteristics in order to merit protection.

---

**Issue Number:** PP-OR-WOPR-09-0204-58  
**Organization:** Earthjustice  
**Protester:** Kristen Boyles

**Issue Excerpt Text:**

The FEIS also fails to consider and fully analyze an alternative that would designate new wilderness study areas (WSAs) pursuant to the agency's broad authority under 43 U.S.C. § 1712. The failure to consider these and other viable alternatives violates NEPA.

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### *Summary*

The BLM gave insufficient consideration to wilderness study areas (WSAs).

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### *Response*

The BLM does not have the authority to designate new WSAs under the land use planning



process. The BLM completed the wilderness review of public land in Oregon as required by FLPMA Section 603 on October 7, 1991. The Oregon and California Railroad Company lands (O&C lands) were exempted from the wilderness review by the provision in Section 701 (b) of FLPMA that directs that the management of timber resources shall prevail on lands administered under the O&C Act when a conflict or inconsistency arises between FLPMA and the O&C Act (PRMP/FEIS at 1-9; codified in 43 U.S.C. §1181(a)-1181(j)). The designation of WSAs through the wilderness inventory and study process (PRMP/FEIS at 3-422) and the subsequent management under the non-impairment standard required by FLPMA was determined to be inconsistent with the management of these areas for timber resources.

The BLM's authority to designate additional lands as WSAs pursuant to FLPMA Section 603 expired on October 21, 1993, as affirmed in the settlement agreement from *Utah v. Norton*. Any remaining authority for managing lands to protect or enhance wilderness characteristics is derived directly from FLPMA Section 202 (43 U.S.C. §1712). This section, however, does not allow the BLM to designate any lands as WSA or manage them under the Interim Management Plan. Therefore, any alternative that would analyze the designation of new WSAs would be unreasonable.

## Appendix A

<b>Issue Topic</b>	<b>Issue Excerpt Number</b>
<a href="#"><u>Range of Alternatives</u></a>	<a href="#"><u>PP-OR-WOPR-09-0008-10</u></a>
<a href="#"><u>Impacts of PRMP on Climate Change</u></a>	<a href="#"><u>PP-OR-WOPR-09-0008-13</u></a>
<a href="#"><u>O&amp;C Lands – Multiple Purposes</u></a>	<a href="#"><u>PP-OR-WOPR-09-0008-16</u></a>
<a href="#"><u>Endangered Species Act - Section 7 Consultation</u></a>	<a href="#"><u>PP-OR-WOPR-09-0008-17</u></a>
<a href="#"><u>Risk of Extinction</u></a>	<a href="#"><u>PP-OR-WOPR-09-0008-20</u></a>
	<a href="#"><u>PP-OR-WOPR-09-0008-23</u></a>
	<a href="#"><u>PP-OR-WOPR-09-0008-24</u></a>
	<a href="#"><u>PP-OR-WOPR-09-0008-25</u></a>
<a href="#"><u>Best Available Information</u></a>	<a href="#"><u>PP-OR-WOPR-09-0008-24</u></a>
<a href="#"><u>Aquatic Conservation Strategy</u></a>	<a href="#"><u>PP-OR-WOPR-09-0008-25</u></a>
<a href="#"><u>Off-Highway Vehicle Emphasis Areas – Regulations and Policies</u></a>	<a href="#"><u>PP-OR-WOPR-09-0008-26</u></a>

Adams, David	Clarkson, Melody	Gabriel, Susan
Artura, Debra	Clover, Jim and Annette	Genasci, Elaine
Austin, Cynthia	Parsons	Gessert, Kate
Ayars, Tim	Cohen, Josh and Corinne	Gibson, James
Ballantine, John	Connors, Michael	Gicking, Barbara and
Behm, Charlotte	Cowger, Kelly	Richard
Behm, Harriet	Cox, Leslie and Mike State	Gilbert, Robin
Bennett, Harry	Crittenden, Charles	Gonsman, Jim
Bishoprick, William	Datz, Michael and Jody	Greathouse Neel, Donna
Bitner, Pat	Degulis, Garry	Gregory, Probyn
Brodsky, Steve	Denison, Lou Ann	Griffith, Roland
Bryant, Elizabeth	Dickens, Bart	Gripp, Gary
Butler, Antoinette	Donelson, Bruce	Haehlen, Heidi
Calahan, David P.	Douglas, Robert	Hayden, Mary
Camp, Mary	Doyle, Greg and Lynn	Hernandez, Eugene
Camp, Orville	Duggan, Sharon	Hervert, Carla
Campbell, Burce	Earl, Julia	Hice, Dilbert and Patricia
Canepa, Judith K.	Euritt, Camille	Hills, Roxy
Caples, Tom	Fairbank, Adi	Horstmann, Judith
Carlson, Mary Ann	Fitch, Derryl	Hurst, Gary
Cassell, Faris	Fitch, Theresa	Ingalsbe, Marita
Cervine, Steven	Franklin, Toni	Jacobson, Don
Chapin, Carol	Fremery, Lexie de	Johnson, Ara
Chapin, Lawrence	Freund, Richard D.	Johnson, Marvin
Chester, Colby	Fusco, Carol Anne	Joyce, Bonnie

Joyce, Mary Anne  
Kame'enui, Brenda  
Kennedy, Arthur  
Kirks, James  
Klein, Vanessa  
Kosterman, Peter  
Kostromitina, Yuliya  
Kracke, David  
Kugler, Peter  
Kuhns, Don  
LeBlanc, Genevieve  
LeGue, Chandra  
Lemaster, Sharon  
Lish, Christopher  
Lisman, Gary  
Litak, Robert K.  
Long, Chris  
Lutter, Matthew  
Marangio, Michael  
Matera, Stephen  
Matthews, Ethan  
Maxwell, David  
McBrián, Carol  
McBride, Gregg Patrick  
and Deborah  
McClatchey, Walter  
McCombs, Richard  
McGuire, Michael I.  
McIlroy, Julia  
Meier, Courtney  
Melillo, Edward  
Miller, Edward  
Mintkeski, Walt  
Mondale, William M  
Montalbano, Chriss  
Moore Jr., James F.  
Moore, Jean B.  
Moore, Margaret  
Morris, Barbara  
Moss, Paul  
Movsky, Rick

Nardello, Sharon  
Native Plant Society of OR  
Nault, Lisa-Marie  
Nawa, Richard K.  
Neff, Jack  
Nilsen, Janine  
O'Harrow, Nancy  
Orsini, Alice  
Ost, John  
Pannke, Heidi  
Parker, Lori  
Patton, Ronald  
Paulson, Robert  
Peters, David A.  
Phillips, Nancy D.  
Picciani, Laureen  
Platter, Daniel L  
Pratt, Margaret  
Propp, Janet  
Ralls, Richard  
Rehder, Melissa  
Reid, Janice  
Rennie, Deborah  
Rennie, Drummond  
Reynolds, Paul and Leslye  
Rice, Jason  
Rice, Virginia  
Richardson, Len  
Richmond, David  
Robey, Steve  
Rose, Carter  
Rubintein, Leslie  
Rupert, Greg  
Sands, Shari  
Saunders, Clarence  
Schauer, Karen  
Schlenoff, Debbie  
Schnabel, Phil  
Schneider, Cathie  
Scott, Helen  
Sebring, Linda

Shepard, Linda M.  
Shockey Family  
Silverman, Susan  
Singer, Ellen  
Skach, Arthur  
Smith, Craig  
Solinsky, Thomas  
Spitz, Jon  
Springer, Karen  
Stanek, Elizabeth  
Sullivan, Thomas  
Swedo, Jane  
Switzer-Tatum, Paulette  
Taylor, Suzanne  
Thoen, Cheryl  
Thomas, Chant  
Thoren, Tim  
Toobert, Michael  
TorgResen-Platter, Cindy  
Torrence, Paul F.  
Tvedt, David  
Ulloth, John Jay  
Vaile, Joseph  
Vileisis, Ann  
Wallin, Bettine  
Wear, Hannah  
Westerhoff, Maria  
Wheeler., Mark  
Wilde, Jennifer  
Wilson, David S.  
Wilson, Jan  
Wilson, Michael  
Winholtz, Betty  
Withrow, Amanda  
Wolfe, Nanlouise  
Wood, Elaine S.  
Yeargain-Williams, Peggy  
Zehava, Angela

Appendix B

<b>Issue Topic</b>	<b>Issue Excerpt Number</b>
<a href="#"><u>Off-Highway Vehicle Emphasis Areas – Regulations and Policies</u></a>	<a href="#"><u>PP-OR-WOPR-09-0157-1</u></a> <a href="#"><u>PP-OR-WOPR-09-0157-3</u></a> <a href="#"><u>PP-OR-WOPR-09-0157-4</u></a>
<a href="#"><u>Impact Analysis – Off-Highway Vehicle Use</u></a>	<a href="#"><u>PP-OR-WOPR-09-0157-2</u></a>

Austin, Cynthia  
 Ayars, Tim  
 Bennett, Harry  
 Calahan, David P.  
 Carlson, Mary Ann  
 Chapin, Carol  
 Chapin, Lawrence  
 Clover, Jim and Annette Parsons  
 Cox, Leslie and Mike State  
 Doyle, Greg and Lynn  
 Eikleberry, Burt  
 Fitch, Derryl  
 Fitch, Theresa  
 Hice, Dilbert and Patricia  
 Maxwell, David  
 McBride, Gregg Patrick and Deborah  
 McGuire, Michael I.  
 Moore, Jean B.  
 Reynolds, Paul and Leslye  
 Shepard, Linda M.