

March 30, 2016

Andrea Jones, District Ranger
Conejos Peak Ranger District
15571 CR T.5
La Jara, Colorado 81140

RE: Public Comments on the CP District-wide Salvage Project

Dear Ms. Jones:

Thank you for providing the public with the opportunity to comment on the CP District-wide Salvage Project, as described in the Notice of Intent to Prepare an EIS, published in the Federal Register on March 1, 2016. We appreciate this opportunity, and hereby provide these comments for your consideration as you develop the draft Environmental Impact Statement. While we agree with the Forest Service that some forest management activities – as described in the Notice – may be appropriate, we are very concerned about the impacts of the proposal and the potential for a lack of site-specific analysis in the draft EIS.

I. A final decision on the Project should not be made until forest planning is complete.

The notice of intent to prepare an EIS mentions that the Project is necessary because several Management Area Prescriptions (MAPs) have departed from desired conditions in the Forest Plan. However, the Rio Grande National Forest is in the middle of a forest planning process that will result in a new forest plan. Although the expected released date for the draft EIS is September 2017, the Forest Service should ensure that it does not make a decision on the Project until a new Forest Plan is finalized. This ensures that the Project moves forward using the latest, science-based, forest plan, and that the public has an opportunity to review the Project against whatever provisions are included in a new Forest Plan. We look forward to working with the Forest Service as the forest planning process continues.

II. Site-specific analysis is crucial.

We are pleased that the Forest Service intends to complete an Environmental Impact Statement for the Project. A Project of this size and scope clearly contemplates significant effects that are best analyzed in an EIS. However, the Forest Service must conduct site-specific analysis as a part of the DEIS. This includes explicitly delineating where logging will occur, what type of logging will occur where, and where roads will be constructed.

NEPA imposes an obligation on the Forest Service to disclose and analyze environmental information and consequences of federal action. *Baltimore Gas & Elec. Co. v. Nat. Res. Def. Council*, 462 U.S. 87, 97 (1983) (agency must take “hard look” at environmental consequences before taking action). “The purpose of the ‘hard look’ requirement is to ensure that the

‘agency has adequately considered and disclosed the environmental impact of its actions and that its decision is not arbitrary and capricious.’” *Colo. Emtl. Coal. v. Salazar*, 875 F. Supp. 2d 1233, 1250 (D. Colo. 2012) (citing *Baltimore Gas & Elec. Co.*, 462 U.S. at 97).

Federal “[a]gencies must ‘take a hard look at the environmental consequences of proposed actions utilizing public comment and the best available scientific information.’” *Biodiversity Cons. Alliance v. Jiron*, 762 F.3d 1036, 1086 (10th Cir. 2014) (internal citation omitted). This hard look “assessment of all ‘reasonably foreseeable’ impacts must occur at the earliest practicable point, and must take place before an ‘irretrievable commitment of resources’ is made.” *Colo. Emtl. Coal. v. Ofc. of Legacy Mgmt.*, 819 F. Supp. 2d 1193, 1208 (D. Colo. 2011) (citing *New Mexico ex rel Richardson v. Bur. of Land Mgmt.*, 565 F.3d 683, 718 (10th Cir. 2009) reconsid. granted in part on other grounds, 2012 WL 628547 (D. Colo. Feb. 27, 2012). “An agency meets the ‘hard look’ requirement when it has ‘made a reasoned evaluation of the available information and its method was not arbitrary or capricious.’” *Jiron*, 762 F.3d at 1086 (internal citation omitted).

Additionally, NEPA requires that this hard look assessment take place at the site-specific level if there are no additional NEPA processes yet to occur in the future to fully implement the project and the environmental impacts are reasonably foreseeable. *See New Mexico ex rel Richardson*, 565 F.3d at 718-19 (requiring site-specific NEPA analysis when no future NEPA process would occur); *Ofc. of Legacy Mgmt.*, 819 F. Supp. 2d at 1209-1210 (requiring site-specific NEPA analysis even when future NEPA would occur because “environmental impacts were reasonably foreseeable”); *cf. Wyoming v. U.S. Dept. Agric.*, 661 F.3d 1209, 1256 (10th Cir. 2011) (not requiring site-specific NEPA analysis because decision was “a ‘broad’ nationwide rule” allowing Forest Service to evaluate effects “generically”).

Specifically, NEPA requires the Forest Service to disclose and analyze the direct, indirect, and cumulative impacts and consequences of its activities. 40 C.F.R. §§ 1502.16(a), 1502.16(b), 1508.25(c), 1508.27(b)(7). Direct effects include that “which are caused by the action and occur at the same time and place.” 40 C.F.R. § 1508.8(a). Indirect effects are those “which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.” 40 C.F.R. § 1508.8(b). Cumulative impacts include “impact on the environment which results from the incremental impact of the action when added other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-federal) or person undertakes such other actions.” 40 C.F.R. § 1508.7. Importantly, “[c]umulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” *Id.*

There are “two critical features of a cumulative effects analysis[:] ... [f]irst, it must not only describe related projects but also enumerate the environmental effects of those projects ... Second, it must consider the interaction of multiple activities and cannot focus exclusively on the environmental impacts of an individual project.” *Ore. Natural Res. Council Fund v. Brong*, 492 F.3d 1120, 1133 (9th Cir. 2007). “A proper consideration of the cumulative impacts of a project requires ‘some quantified or detailed information; ... [g]eneral

statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.” *Klamath-Siskiyou Wildlands Ctr. v. Bur. of Land Mgmt.*, 387 F.3d 989, 993-94 (9th Cir. 2004) (internal citation omitted). Importantly, “generalized conclusory statements that the effects are not significant or will be effectively mitigated” render a cumulative effects analysis inadequate. *Id.* at 996.

Here, the Forest Service *must* provide site-specific details and analysis of what is contemplated by the Project and what impacts the Project will have.

III. The Forest Service must fully analyze and disclose the effects of the Project on Canada lynx.

As the Forest Service develops this Project, it is imperative that impacts to Canada lynx are thoroughly disclosed, analyzed, and vetted before any final decision is made. Other Forests in Colorado that have embarked on similar large scale logging projects have failed to complete this robust analysis, and we encourage the Rio Grande National Forest to take a different approach. The Forest Service must describe in complete detail – using numeric quantification and detailed maps – what lynx habitat exists in the Project area. This should not just identify mapped lynx habitat, or occupied lynx habitat, but should also include the different types of lynx habitat, including denning, foraging, and winter habitat, as well as linkage areas and connectivity corridors. This information is crucial to determining what specific impact the project will have on lynx, and what areas the Forest Service should avoid. Further, this information is imperative for the Forest Service to reasonably determine whether or not the Project will comply with the Southern Rockies Lynx Amendment.

Of particular concern is that the Project area is in the middle of very important lynx habitat in Colorado, both for resident populations, and serving as a corridor for lynx movement into northern New Mexico. Theobald and Shenk (2011) show that the Project area overlaps with areas of high, moderate, and low intensity lynx use (based on data generated from 1999-2010). *See* Theobald, David and Shenk, Tanya, AREAS OF HIGH HABITAT USE FROM 1999-2010 FOR RADIO COLLARED CANADA LYNX REINTRODUCED TO COLORADO (MARCH 31, 2011) at 11 (attached as Exhibit 1). Ivan (2012) similarly shows that predicted winter *and* summer use by lynx in the Project area is incredibly high. Ivan, Jake et al., PREDICTIVE MAP OF CANADA LYNX HABITAT USE IN COLORADO (2012) (attached as Exhibit 2).

Although the U.S. Fish and Wildlife Service declined to designate lynx critical habitat in Colorado, Dr. Tanya Shenk – one of the leading lynx researchers in Colorado – stated that Colorado, including the Project area, “may serve as one of the best ‘higher elevation habitats within the range of the DPS that would facilitate long-term lynx adaptation to an elevational shift in habitat should one occur.’ As such, the Southern Rocky Mountains, including areas in Colorado, northern New Mexico and southern Wyoming should be included as critical

habitat.” Shenk, Tanya, PEER REVIEW COMMENTS ON REVISED DESIGNATION OF CRITICAL HABITAT FOR THE CONTIGUOUS U.S. DISTINCT POPULATION SEGMENT OF THE CANADA LYNX AND REVISED DISTINCT POPULATION SEGMENT BOUNDARY, Communication to Jim Zelenak–USFWS (January 29, 2014) (attached as Exhibit 3). This all underscores the importance of the Project area to Canada lynx, and counsels extreme caution in undertaking any management activities that may be detrimental to this important threatened species.

Lynx avoid areas that have been clearcut, logged, and even thinned. The Interagency Lynx Conservation Assessment and Strategy (August 2013) (LCAS) includes vegetation management as one of the top four anthropogenic threats to lynx. *See* LCAS at 69. The LCAS also recognizes that managing forests to the extent that the canopy is opened discourages use of those stands by lynx. LCAS at 73. Further, reduction in horizontal cover, one of the potential results of the project, degrades the quality of winter habitat for lynx. *Id.* The LCAS also notes that lynx avoid clearcut areas, especially during winter. *Id.* Squires also emphasizes the importance of maintaining and recruiting lynx winter habitat as opposed to winter hare habitat, as that is what is most important to conserve lynx, especially in winter when lynx are most taxed. *See* Squires, John et al., SEASONAL RESOURCE SELECTION OF CANADA LYNX IN MANAGED FORESTS OF THE NORTHERN ROCKY MOUNTAINS, 74 J. OF WILDLIFE MGMT. 1648–1660 (2010) (attached as Exhibit 4).

The impact of forest management activities on lynx habitat frequently is limited to an analysis of effects on snowshoe hare. However, lynx winter habitat may actually be more important than producing habitat for snowshoe hare. In other contexts, the Forest Service has confused these two things and has failed to analyze and disclose the effects of forest management activities on lynx winter habitat, as well as any effects on snowshoe hare, recognizing that they are not the same thing. The DEIS must fully disclose and analyze effects to lynx winter habitat, both in terms of retention and recruitment.

The Forest Service should prioritize retention and recruitment of abundant and spatially well distributed patches of mature, multi-storied forest stands. The Project should be designed to conserve lynx winter habitat and manage stands in a manner that would allow younger stands to eventually become good lynx winter habitat. Young stands in the stand initiation stage may be decent habitat for snowshoe hares (once tree seedlings and saplings grow above the snow) but they are not good lynx winter habitat.

Although lynx winter habitat is of great importance, the Forest Service still must analyze the effects of the project on snowshoe hare densities, including an analysis of the baseline, and anticipated effects. Further, because lynx in Colorado tend to consume greater proportions of secondary prey in their diets than elsewhere, the Forest Service must thoroughly examine potential effects to lynx secondary prey, including red squirrel. This must not only be examined in the NEPA context, but also in the Southern Rockies Lynx Amendment context (*see* SRLA Guideline VEG G5). The LCAS (2013) explains in “Colorado, 66.4±5.6% of annual documented kills by lynx (n=604) were hares, varying annually from 30.4–90.8%,

while an average of $22.6 \pm 5.7\%$ were red squirrels (Shenk 2009).” LCAS (2013) at 18. In contrast, in “Montana, Squires and Ruggiero (2007) reported that even in areas with consistently low densities (0.1–0.6 hares/ha [0.04–0.02 hares/ac]), snowshoe hares still accounted for 96% of biomass in the lynx diet, with red squirrels and grouse accounting for only 2% each of the biomass in lynx diets during winter.” *Id.* Because of the particular importance of red squirrel to lynx in Colorado as a secondary prey source, the Forest Service must thoroughly examine the baseline for red squirrel abundance and habitat within the project area, as well as anticipated effects to red squirrel populations and habitat in the project area.

The Southern Rockies Lynx Amendment (SRLA) includes objectives, standards, and guidelines designed to conserve lynx and lynx habitat in the Southern Rockies region. The Forest Service must ensure that the Project complies with all aspects of the SRLA. To do this, the Forest Service cannot just conclude that it is meeting all SRLA standards, guidelines, and objectives, but rather must fully explain how it will do so. Importantly, site-specific information, including locations and prescriptions for specific logging units and locations and lengths of road construction must be disclosed and analyzed in the context of compliance with the SRLA.

The Forest Service also cannot neglect its obligations with regards to SRLA guidelines merely because they are guidelines. The SRLA Biological Opinion (July 25, 2008) anticipated that “[g]uidelines would be implemented in most cases,” and further anticipated that “[e]ffects would be based on site specific conditions and would require subsequent project level . . . consultation with the [U.S. Fish and Wildlife] Service.” SRLA BiOp at 69. As such, the Forest Service must explain how and if it is implementing SRLA guidelines, and if not, provide an explanation for why it is not implementing each specific guideline. Again, the Forest Service cannot just state that it will meet each guideline, but must explain how it will do so. Further, we would encourage the Forest Service to treat all guidelines as mandatory and binding to ensure that it is doing everything it can to protect, preserve, and enhance lynx habitat within the project area. As a part of the SRLA analysis, the Forest Service should make available all reports submitted to the USFWS regarding SRLA compliance, as well as an analysis of what those reports mean (including how much lynx habitat has already been treated and/or degraded) in the context of past forest management activities and the Project.

Of particular concern is compliance with SRLA Guideline VEG G11 – pertaining to lynx denning habitat. The U.S. Fish and Wildlife Service discussed the importance of denning habitat to lynx, and included denning habitat as a Primary Constituent Element “that provide[s] for a species' life-history processes and [is] essential to the conservation of the species” when determining which lands should be designated as Canada lynx critical habitat. 79 Fed. Reg. 54782, 54811-2 (Sept. 12, 2014). FWS explained “a feature or habitat variable need not be limiting to be considered an essential component of a species' habitat. Both denning and matrix habitats are essential components of landscapes capable of supporting lynx populations in the DPS because without them lynx could not persist in those landscapes.” 79 Fed. Reg. at 54786. Because lynx denning habitat “is an essential component

of the boreal forest landscapes that lynx need to satisfy a key life-history process (reproduction),” FWS identified “denning habitat to be a physical or biological feature needed to support and maintain lynx populations over time and which, therefore, is essential to the conservation of the lynx [distinct population segment].” 79 Fed. Reg. at 54810. Here, a ranger district wide salvage project has the potential to remove extensive woody debris from the landscape, thereby depriving lynx of needed denning habitat. As such, extensive discussion of denning habitat and effects to it from the Project are needed in the DEIS.

The LCAS (2013) explains that areas with large amounts of dead trees can actually enhance lynx habitat in both the short term and long term:

After large dead trees fall to the ground, they provide cover and may enhance lynx foraging habitat in the short term and potential denning habitat in the longer term, depending on post-disturbance stand conditions. Standing snags also may provide sufficient vertical structure and cover to allow lynx to traverse long distances (>1 km [>0.6 mi]) across burned habitat (Maletzke 2004).

LCAS at 76. The Forest Service should analyze whether or not such areas of dead trees within the project area provide greater benefit to lynx if left on the landscape, as opposed to being removed through salvage harvest.

Because lynx denning habitat must occur near lynx foraging habitat (see LCAS at 29), the Forest Service must discuss and analyze the current state of lynx denning habitat within the project area, especially as it relates spatially to lynx foraging habitat. Without this baseline, there can be no legitimate determination of the effects of the project on lynx denning habitat. The environmental analysis should disclose (preferably on a map) and analyze what portions of the project area currently is considered to be lynx denning habitat, what portions of the project area are considered to be foraging habitat for lynx, what portions of that lynx denning habitat would be subject to treatments, what portions of lynx denning habitat would be degraded as a result of treatments, and how long it would take for degraded or destroyed denning habitat to once again become lynx denning habitat.

Importantly, the DEIS must disclose what percentage of each LAU is made up of lynx denning habitat, how much coarse woody debris currently exists within the denning habitat in each LAU, or what anticipated changes to coarse woody debris in each LAU’s denning habitat would result from the Project’s implementation. These issues should be addressed both qualitatively and quantitatively. If the Forest Service does not have this information, it should not proceed with a major vegetation management project without knowing what kinds of effects it will have on important lynx denning habitat in the project area. If the Forest Service does not have this information, it cannot legitimately assert that it will comply with VEG G11. Again, conclusory statements without analysis and explanation are not sufficient for compliance with NEPA and the SRLA.

The DEIS should discuss and analyze how lynx movement through the project area would be affected by the project, and what impacts to lynx travelling to other areas would see. Particular attention should be given to both official lynx linkage areas as well as other known travel corridors in the project area.

The DEIS should fully discuss the effects of the construction of temporary roads, the recommissioning of previously closed roads, and the construction of new roads on lynx and fragmentation of lynx habitat, as well as snow compaction and the potential for recreational use of those roads. The DEIS must also explain whether these roads would be closed to the public, how long they will be left on the landscape, how they will be decommissioned, what specific funding will be used to decommission and obliterate roads, what risk of unauthorized use of those roads by the public would be, and what funding exists to prevent unauthorized use of those roads.

Given the realities of declining funding for the Forest Service, and specifically enforcement of forest service regulations and other laws, the DEIS must provide assurances that the Forest Service actually has the ability, money, and personnel to ensure that unauthorized use of temporary roads will not occur, and that the Forest Service will ultimately have the funds to address closure, decommissioning, and obliteration of any roads. With a full and fair disclosure of this information, the public and the decision maker will have a clear understanding of what exactly the Forest Service is proposing, and what steps it will be taking to remove the roads from the landscape. Road decommissioning can be done in a responsible way that returns habitat to its native form with time, however it can also be done in an irresponsible and environmentally destructive manner. Leaving it to chance at a later, undetermined time does not meet NEPA's requirements. Further, a map must be produced showing where exactly these roads (whether new road, temporary road, or formerly-closed recommissioned roads) are located.

The DEIS must also take a hard look at the indirect and cumulative impacts to lynx, and specifically how the project will, in conjunction with other activities (private, state, and federal), climate change (now a significant threat to the species under the 2013 LCAS), and other natural events cumulatively impact lynx in the immediate area of the project and the larger sub-population in the Southern Rockies.

Finally, in comments dated July 28, 2015 on the GMUG National Forest's SBEADMR project, Patricia Dorsey (attached as Exhibit 5), the Southwest Region Manager for Colorado Parks and Wildlife (CPW), explained:

“Results from CPW and USFS monitoring efforts indicate that lynx are still present in nearly all of the areas they inhabited prior to the spruce beetle outbreak on the Rio Grande NF (roughly 4-6 years ago depending on location). In 2015 two GPS-collared female lynx produced kittens within beetle-killed forest patches. Thus, we believe that areas lacking a living

overstory, but with a sufficient understory are continuing to function as lynx habitat.”

We encourage the Forest Service to fully disclose the nature of these monitoring efforts, in particular those being led by Dr. John Squires of the Forest Service’s Rocky Mountain Research Station. A discussion of what is being studied, and any preliminary (or final) results must be disclosed and analyzed. In particular, evidence that lynx are reproducing in beetle-killed forest is very important, and may counsel care in the extent and locations of salvage logging operations within the Project area.

IV. The Forest Service must consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act.

The Forest Service must consult with the U.S. Fish and Wildlife Service under Section 7 of the Endangered Species Act with regards to the impacts of the Project on species listed as threatened and endangered under the ESA. Importantly, we encourage the Forest Service to be transparent about the consultation process and affirmatively post all consultation documents, including any Biological Assessment submitted to the USFWS, any letters seeking concurrence, and any responses or Biological Opinions from the USFWS. In the past, other National Forests have required the public to submit Freedom of Information Act requests to obtain these documents. We encourage the Forest Service to be transparent and allow the public to view these critical documents, and other documents in the project record, without the need to submit a formal FOIA request,

V. The Project must avoid all currently unroaded areas.

We are pleased to see that the Forest Service will not log or build roads in any Colorado Roadless Areas. However, we encourage the Forest Service to not limit its analysis and avoided areas to official Colorado Roadless Areas, but to fully analyze the Project’s impacts on and avoid disturbance of all unroaded areas. As we understand it, you have a preliminary inventory of unroaded areas pursuant to FSH 1909.12, Chapter 70 that was undertaken as part of the ongoing land management plan revision. The inventory will likely be finalized this year. Given the timeframe of this project planning process, it seems reasonable that you could use the Chapter 70 inventory as a basis for delineating unroaded areas. Please make sure to provide a map showing the Chapter 70 inventoried areas in relation to proposed logging and road (system or temporary) construction locations, as that will enable the public to provide informed comments on potential impacts to unroaded and potential wilderness areas, which by dint of being unroaded will have particular biological and ecological importance.

VI. The Forest Service must consider and analyze areas that are important for wildlife movement and connectivity.

Below and in Exhibit 6, we offer sources of scientific information pertaining explicitly to connectivity and corridors, and request that the Forest Service consider this information in the environmental analysis.

A. Raw focal species telemetry and genetic data.

This type of data will help identify key sites supporting focal species movement at fine scales and/or confirm that a focal species does indeed utilize a particular site predicted to be important for movement by the models described above and below. We are aware of radio-collared data related to lynx. Colorado Parks and Wildlife may have additional telemetry data related to lynx and other species. We encourage the Forest Service to reach out to CPW to inquire about this type of data.

B. Other connectivity data

i. Colorado Parks and Wildlife Big Game Corridor and Movement Data.

Colorado Parks and Wildlife Species Activity Data is available for download through ArcGIS Online here:

<http://www.arcgis.com/home/item.html?id=190573c5aba643a0bc058e6f7f0510b7>. This data contains significant information about wildlife movement and migration corridors for a wide range of species. These movement and migration data sets are available here:

- Bighorn Sheep - [Click to Download](#)
- Elk - [Click to Download](#)
- Mule Deer - [Click to Download](#)
- Pronghorn - [Click to Download](#)

In Exhibit 6, you will find a series of maps showing this data for the Rio Grande National Forest.

ii. Southern Rockies Ecosystem Project's *Linking Colorado's Landscapes* Report.¹

In partnership with the Colorado Department of Transportation, the Federal Highway Administration, The Nature Conservancy, and Colorado State University, the Southern Rockies Ecosystem Project launched Linking Colorado's Landscapes in fall 2003. The purpose of this work was to identify and prioritize wildlife linkages across the state of Colorado to promote safe passage for wildlife. This report documents the process used to

¹ Southern Rockies Ecosystem Report. 2015. "Linking Colorado's Landscapes: A Statewide

define the locations of important wildlife linkages and to prioritize these areas for further assessment, and describes the decision-making process that led to the selection of high priority linkages. The project took into consideration several species identified linkages on the Rio Grande National Forest. Map 3 in the report (pp. 41) displays the final prioritized linkages across the state. Maps 6-17 display species-specific linkages across the state, including linkages on the Rio Grande National Forest. The report is available online here: <http://rockymountainwild.org/site/wp-content/uploads/LCL-Phase-1-Report.pdf>. High priority linkages from this report are displayed on a map in Exhibit 6.

iii. Relevant Studies in New Mexico

The following species movement related data in New Mexico are relevant to the shared boundary between the Carson National Forest and the Rio Grande National Forest. These data sets clearly point to a “hotspot” of species movement between the two forests.

The BLM’s Taos Field Office (FO) identified big game corridors in its 2012 Resource Management Plan (RMP).² While the corridors identified on this map are restricted to New Mexico, they do speak to the area in the northern part of the Carson National Forest’s Tres Piedres Ranger District proximal to the Rio Grande National Forest. See Appendix 3 for a map showing the BLM’s Taos FO Big Game Corridors overlaid with the Rio Grande National Forest and other units in the Upper Rio Grande Basin.

The BLM’s (2014) San Luis Valley – Taos Plateau Ecoregion Landscape Pre-assessment identifies preliminary big game migration corridors in Colorado and New Mexico as part of the larger landscape assessment.³ The data used to identify these corridors is from the BLM and Colorado Department of Parks and Wildlife. It appears as though the corridors in New Mexico that are identified in this report are identical to the corridors identified by the BLM’s Taos FO in their RMP. See a map of these corridors in Appendix 3.

iv. Recommendation

Modeling data shows that there are a number of potential wildlife corridors within the Rio Grande National Forest, and between the forest and adjacent units. One area that clearly offers potential for larger landscape scale and cross-jurisdictional connectivity is the southern end of the Conejos Peak District that lies adjacent to the Carson National Forest. This area shows up as a wildlife movement zone in multiple studies, connecting the Rio Grande to the

² http://www.blm.gov/nm/st/en/fo/Taos_Field_Office/Taos_Planning/taos_rmp.html

³ Leroy J. Walston, Heidi M. Hartmann, Konstance L. Wescott, Emily A. Zvolanek, Katherine E. Rollins, and Laura R. Fox, 2014. “San Luis Valley – Taos Plateau Level IV Ecoregion Landscape Assessment Phase I Report and Phase II Work Plan.” Environmental Science Division, Argonne National Laboratory *prepared for* Department of Interior Bureau of Land Management. August 2014.

Carson and Rio Grande del Norte National Monument. Because of the importance of the Rio Grande National Forest to wildlife movement, particularly the area south of the San Juan Wilderness, we request that you analyze the impacts of the logging project on species movement and the potential for disruption and fragmentation of these known movement corridors between the Carson and Rio Grande National Forests.

VII. The Forest Service must fully disclose and analyze the effects of any road use or construction related to the Project.

The Forest Service faces many challenges with its vastly oversized, under-maintained, and unaffordable road system. The impacts from roads to water, fish, wildlife, and ecosystems are tremendous and well documented in scientific literature. Given that the Project is considering changes to a large number of miles of roads, and given its large geographic scale, this is precisely the type of project where the Forest Service must consider its Travel Analysis Report (TAR) for the Rio Grande National Forest, and identify the Minimum Road System (MRS). 36 C.F.R. § 212.5(b)(1) (“For each national forest . . . the responsible official must identify the minimum road system needed for safe and efficient travel and for administration, utilization, and protection of National Forest System lands.”). We urge the Forest Service to carefully evaluate the Project and its alternatives through this lens. This type of large-scale project is the perfect opportunity to begin making on-the-ground progress towards an economically and environmentally sustainable road network.

A. As part of its analysis, the Forest Service must consider the Rio Grande National Forest’s Travel Analysis Report and identify the Minimum Road System.

To address its sustainable and deteriorating road system, the Forest Service promulgated the Roads Rule (referred to as “subpart A”) in 2001. 66 Fed. Reg. 3206 (Jan. 12, 2001); 36 C.F.R. part 212, subpart A. The Roads Rule created two important obligations for the agency. One obligation is to identify unneeded roads to prioritize for decommissioning or to be considered for other uses. 36 C.F.R. § 212.5(b)(2). Another obligation is to identify the MRS needed for safe and efficient travel and for the protection, management, and use of National Forest system lands. *Id.* § 212.5(b)(1).⁴ The MRS is the road system, determined by the Forest Service, as needed to:

- Meet resource and other management objectives adopted in the relevant land and resource management plan,
- Meet applicable statutory and regulatory requirements,

⁴ In promulgating its rules, the Forest Service indicated that “[t]he requirement to identify roads for decommissioning is ‘[e]qually important’ as the overall identification of the minimum road system.” *Center for Sierra Nevada v. U.S. Forest Service*, 832 F. Supp. 2d 1138 (E.D. Cal. 2011) (quoting 66 Fed. Reg. at 3207).

- Reflect long-term funding expectations, and
- Ensure that the identified system minimizes adverse environmental impacts associated with road construction, reconstruction, decommissioning, and maintenance.

Id. (hereafter, MRS factors). *See also* Memorandum from Leslie Weldon to Regional Foresters *et al.* on Travel Management, Implementation of 36 CFR, Part 212, Subpart A (Mar. 29, 2012) (hereafter, 2012 Weldon Memo). The goal of subpart A is “to maintain an appropriately sized and environmentally sustainable road system that is responsive to ecological, economic, and social concerns.”⁵

The Forest Service’s Washington Office has issued a series of directive memoranda that outline how the agency expects forests to comply with subpart A.⁶ First, each forest was required to submit its TAR by September 30, 2015. *See* 2013 Weldon Memo. Next, pursuant to its own regulations and directive memoranda, the Forest Service must consider the valid portions of its TAR and begin to determine the MRS in its analysis of site-specific projects of the appropriate geographic size under NEPA. *See* 2012 Weldon Memo at 2 (directing forests to “analyze the proposed action and alternatives in terms of whether, per 36 CFR 212.5(b)(1), the resulting [road] system is needed”). By analyzing whether a proposed project is consistent with the relevant portions of the TAR, and considering the MRS factors under 36 CFR 212.5(b)(1), the Forest Service expects each forest to identify the MRS for particular forest segments. *Id.* (“The resulting decision [in a site-specific project] identifies the MRS and unneeded roads for each subwatershed or larger scale”).

i. This is precisely the type of project for which the Rio Grande National Forest must consider its TAR and identify the MRS in its NEPA analysis.

Now that the Rio Grande National Forest has completed its TAR, it is time for the Forest Service to take the next step under subpart A: identify the MRS through site-specific projects

⁵ *See* 2012 Weldon Memo at 1 (“The national forest road system of the future must continue to provide needed access for recreation and resource management, as well as support watershed restoration and resource protection to sustain healthy ecosystems.”). *See also* Memorandum from Joel Holtrop, U.S. Forest Service Washington Office, to Regional Foresters *et al.* (Nov. 10, 2010) (hereafter, 2010 Holtrop Memo) (“Though this process points to a smaller road system than our current one, the national forest road system of the future must provide needed access for recreation and resource management and support watershed restoration and resource protection to sustain healthy ecosystems and ecological connectivity.”).

⁶ 2010 Holtrop Memo; 2012 Weldon Memo; Memorandum from Leslie Weldon, U.S. Forest Service Washington Office, to Regional Foresters *et al.* (Dec. 17, 2013) (hereafter, 2013 Weldon Memo) (supplementing and reaffirming the 2012 Weldon Memo).

subject to NEPA.⁷

This project provides the appropriate geographic scale for the Forest Service to identify the MRS. The Forest Service's Washington Office has directed forests to use the TAR to identify the MRS for proposed actions at the scale of a 6th code subwatershed or larger. 2012 Weldon Memo at 2. *See also* 2012 FAQs (noting that "travel analysis and identification of the MRS could be done at the same scale, if that scale is at the ranger district or unit level."). Plus, consideration of the MRS factors at 36 C.F.R. § 212.5(b)(1) only makes sense on a large enough geographic scale.

Here, the Project is to be implemented across the entire Conejos Peak Ranger District, which is certainly a large enough geographic scale. Indeed, the Rio Grande's Travel Analysis Process Report specifically contemplates that decisions based on the TAR will be made after "site-specific analysis ... through the NEPA process." Rio Grande National Forest Forest-wide Travel Analysis Process Report (October 2015) at 36.

Under the plain language of the agency's own regulations and directive memoranda interpreting those regulations, the Forest Service must consider the Rio Grande National Forest's TAR and identify the MRS when analyzing the Project under NEPA. *See, e.g.*, 2012 Weldon Memo at 2 ("Travel analysis should be used to inform the environmental analysis.") The Forest Service must consider the MRS factors listed at 36 C.F.R. § 212.5(b)(1) and make a determination as to which roads are needed.

ii. The Forest Service must consider unneeded roads for closure or decommissioning.

Subpart A directs the agency to "identify the roads on lands under Forest Service jurisdiction that are no longer needed."⁸ It refers to all roads, not just National Forest System roads. The rules define a road as "[a] motor vehicle travelway over 50 inches wide, unless designated and managed as a trail."⁹

The Forest Service must ensure that the actions proposed under the Project are consistent with subpart A. The forest must assess the proposed actions as part of the Project's implementation in relation to the TAR as well as the factors for an MRS, with the goal of

⁷ *See* 2012 Weldon Memo ("The next step in identification of the MRS is to use the travel analysis report to develop proposed actions to identify the MRS . . . at the scale of a 6th code subwatershed or larger. Proposed actions and alternatives are subject to environmental analysis under NEPA. Travel analysis should be used to inform the environmental analysis.").

⁸ 36 C.F.R. § 212.5(b)(2). *See also* *Center for Sierra Nevada*, 832 F. Supp. 2d at 1155 ("The court agrees that during the Subpart A analysis the Forest Service will need to evaluate all roads, including any roads previously designated as open under subpart B, for decommissioning.").

⁹ 36 C.F.R. § 212.1.

minimizing adverse environmental impacts. Specifically, the decisions to close, decommission, or maintain certain roads should reflect the results from the risks and benefits analysis in the TAR. Routes identified for decommissioning through the TAR or other processes within the project area must be closed, decommissioned, and reclaimed to a stable and more natural condition during the life of the project. To the extent that the final decision in this project differs from what is recommended in the TAR, the Forest Service must provide an explanation for that inconsistency. *See, e.g., Smiley v. Citibank*, 517 U.S. 735 (1996) (“Sudden and unexplained change . . . or change that does not take account of legitimate reliance on prior interpretation . . . may be ‘arbitrary, capricious [or] an abuse of discretion’”) (internal citations omitted).

The Forest Service should prioritize road decommissioning in this project to enhance landscape connectivity and ecological integrity based on:

- Effectiveness in reducing fragmentation, connecting un-roaded and lightly-roaded areas, and improving stream segments, with a focus on inventoried roadless areas, important watersheds, and other sensitive ecological and conservation areas and corridors;
- Benefit to species and habitats, including restoring aquatic and terrestrial habitats and habitat connections;
- Addressing impaired or at-risk watersheds;
- Achieving motorized route density standards; and
- Enhancement of quiet recreation experiences.

The Forest Service should use the National Best Management Practices for Water Quality Management on National Forest System Lands (Volume 1, April 2012) to guide road management in determining the MRS. The BMP program “was developed to improve agency performance and accountability in managing water quality consistent with the Federal Clean Water Act (CWA) and State water quality programs” and “[c]urrent Forest Service policy directs compliance with required CWA permits and State regulations and requires the use of BMPs to control nonpoint source pollution to meet applicable water quality standards and other CWA requirements.” National Best Management Practices. It directs forests to:

- Design the transportation system to meet long-term land management plan desired conditions, goals, and objectives for access rather than to access individual sites.
- Limit roads to the minimum practicable number, width, and total length consistent with the purpose of specific operations, local topography, geology, and climate to achieve land management plan desired conditions, goals, and objectives for access and water quality management.

Id. at 104.

We urge the Rio Grande National Forest to limit its road network to those roads that are necessary for access and management, and which can be adequately maintained within agency budgets and capabilities. We encourage road decommissioning and reductions in road density to improve watershed conditions and aquatic health in streams, as well as to protect and enhance wildlife habitat and connectivity. The Forest Service should continue working to reduce sediment delivery from roads, improve or remove road crossings, and close or decommission roads that cannot be adequately maintained.

B. The Forest Service should prepare a robust environmental analysis under NEPA.

The Forest Service should prepare a robust environmental analysis of the Project, ensuring that it takes NEPA's required "hard look." The agency may not ignore topics if the information is uncertain or unknown. Where information is lacking or uncertain, the Forest Service must make clear that the information is lacking, the relevance of the information to the evaluation of foreseeable significant adverse effects, summarize the existing science, and provide its own evaluation based on theoretical approaches. 40 C.F.R. § 1502.22.

i. The Forest Service should clearly articulate the statement of purpose, and provide support for the claimed need.

The Council on Environmental Quality's (CEQ) regulation implementing NEPA explains that the statement of purpose and need "shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action." 40 C.F.R. § 1502.13. An accurate statement of purpose and need is central to crafting an adequate EIS because it will provide the guideposts for the analysis of the proposed action, alternatives, and effects. 40 C.F.R. § 1502.13.¹⁰ An accurate statement of purpose and need is important because it dictates the range of "reasonable" alternatives. *See, e.g., Klamath-Siskiyou Wildlands Center v. Graham*, 899 F. Supp. 2d 948, 958 (E.D. Cal. 2012). Yet the statement of purpose must not be so narrow as to artificially limit the alternatives considered. *See, e.g., City of Carmel-by-the Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997).

The Forest Service has a substantive duty to address the over-sized road system. *See* 36 C.F.R. 212.5. This underlying substantive duty necessarily informs the scope of the agency's NEPA analysis. After more than 15 years, the Forest Service can no longer delay in addressing this duty.

¹⁰ *See also, e.g.,* CEQ, Letter to Secretary of Transportation Mineta (May, 2003) (stating that "[t]houghtful resolution of the purpose and need statement at the beginning of the process will contribute to a rational environmental review process and save considerable delay and frustration later in the decisionmaking process."), *available at* <http://ceq.hss.doe.gov/nepa/regs/CEQPurpose2.pdf>.

Here, the purpose and need statement for the Project should include a description of the type and amount of proposed road work (i.e., miles of road to decommission, maintain, close, or upgrade; miles of road to convert to a different maintenance level or non-motorized trail; stream crossing removal; culvert upgrades; other road-related restoration projects). The Forest Service has a responsibility to accurately frame its actions and legal duties to properly communicate its goals to the public and interested stakeholders. The agency should tie any road-related purpose to identified stressors, explaining the need for these activities.

ii. The Forest Service should accurately define the official road network as the baseline for the NEPA analysis.

On many past projects, the Forest Service considers the baseline and no-action alternative one and the same. But that does not have to be the case. *See, e.g.*, FSH 1909.15, 14.2; CEQ's Forty Most Asked Questions (1981), #3 (explaining "[t]here are two distinct interpretations of 'no action'"; one is "'no change' from current management direction or level of management intensity," and the other is if "the proposed activity would not take place"). If current management direction continued on a forest, the Forest Service would continue not to recognize decommissioned roads and unauthorized roads as part of the road system. Of course, these roads would still have impacts. Disclosure of the number and location of decommissioned routes and unauthorized routes, as well as the impacts of those routes, is a necessary component of the no-action alternative. But it is separate and distinct from the identification of the baseline open route system.

The official open Forest Service road network should be the only system considered as the baseline open route system for an action. The baseline should not include decommissioned routes or unauthorized routes.

iii. In analyzing the impacts of the Project, the Forest Service must consider a broad array of impacts related to forest roads.

Connected, Cumulative, or Similar Actions

CEQ's regulations require an agency to consider not only the project proposal itself, but also connected, cumulative, and similar actions that could contribute to cumulative effects. 40 C.F.R. § 1508.25. Connected actions are those that are closely related and should be discussed in the same EIS. *Id.* § 1508.25(a)(1). The regulations explain that connected actions: (1) automatically trigger other actions that may require an EIS; (2) cannot or will not proceed unless other actions are taken previously or simultaneously; (3) are interdependent parts of a larger action and depend on the larger action for their justification. *Id.* Cumulative actions are those "which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed in the same impact statement." *Id.* § 1508.25(a)(2). Finally, "similar actions" are those "which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide a basis for evaluating

the environmental consequences together, such as common timing or geography.” *Id.* § 1508.25(a)(3). In assessing the impacts of the Project, the Forest Service should consider impacts from other connected, cumulative, or similar actions.

- Are there timber harvests ongoing or planned for this region or nearby regions that may result in cumulative impacts that should be discussed in this environmental analysis?
- Is there road construction, decommissioning, restoration, or other road related activities planned for this region or nearby regions that may result in cumulative impacts that should be discussed in this environmental analysis?
- Are there treatments to address invasive species planned for this region or nearby regions that may result in cumulative impacts that should be discussed in this environmental analysis?
- Are there gravel extraction activities for this region or nearby regions that may result in cumulative impacts that should be discussed in this environmental analysis?
- Is there a WRAP that identifies connected, cumulative, or similar actions within the forest? Identify any other specific projects within the administrative unit that have considered the TAR or the MRS within the NEPA context. The Washington Office directed forests to consider adjacent subwatersheds for connected actions and cumulative effects.¹¹

Direct and Indirect Effects

The Forest Service must consider direct, indirect, and cumulative effects that will result from the [project name]. Direct effects are those caused by the action that occur at the same time and place. 40 C.F.R. § 1508.8(a). Indirect effects are those caused by the action that are later in time but are still reasonably foreseeable. *Id.* § 1508.8(b). These include growth inducing effects, i.e. increased demand and other effects related to induced changes in land use, population density, and related effects on air and water and other natural systems. *Id.*

Impacts from Forest Roads

National Forests provide a range of significant environmental and societal benefits, including clean air and water, habitat for myriad wildlife species, and outdoor recreation opportunities for millions of visitors and local residents each year. *See* 66 Fed. Reg. 3244, 3245-47 (Jan. 12, 2001) (Preamble to Roadless Area Conservation Rule describing key ecosystem and other services of roadless National Forest lands). The Forest Service’s extensive and decaying road

¹¹ 2012 Weldon Memo at 2.

system, however, poses a growing liability to the future ability of the National Forests to provide critical environmental, ecosystem, and recreation services. Collectively, the National Forest System contains over 370,000 miles of roads (not even counting the tens of thousands of additional miles of unclassified, non-system, temporary, and user-created roads). That is nearly eight times the length of the entire U.S. Interstate Highway System. The National Forest road system is primarily a byproduct of the big timber era. The system is often convoluted, unmanageable, and ineffective at meeting 21st century transportation needs. Much of the system is in serious disrepair: as of the end of Fiscal Year 2014, the National Forest road system had a 2.9 billion dollar maintenance backlog. USDA, Forest Service, National Forest System Statistics 2014.

Well-sited and maintained roads provide important services to society. But the adverse ecological and environmental impacts associated with the Forest Service's massive and deteriorating road system are well documented. Those adverse impacts are long-term, occur at multiple scales, and often extend far beyond the actual "footprint" of the road. Included in these comments is a 2014 literature review from The Wilderness Society that surveys the extensive and best available scientific literature—including the Forest Service's General Technical Report synthesizing the scientific information on forest roads (Gucinski 2001)—on a wide range of road-related impacts to ecosystem processes and integrity on National Forest lands. *See* The Wilderness Society, *Transportation Infrastructure and Access on National Forests and Grasslands: A Literature Review* (May 2014) (attached as Exhibit 7).

Erosion, compaction, and other alterations in forest geomorphology and hydrology associated with roads seriously impair water quality and aquatic species viability. *See* Exhibit 7 at 2-4. Roads disturb and fragment wildlife habitat, altering species distribution, interfering with critical life functions such as feeding, breeding, and nesting, and resulting in loss of biodiversity. *Id.* at 4-6. Roads facilitate increased human intrusion into sensitive areas, resulting in poaching of rare plants and animals, human-ignited wildfires, introduction of exotic species, and damage to archaeological resources. *Id.* at 6, 9, & Att. 1. Roads are also major vectors for spreading weeds.

Climate Change and Forest Roads

A robust analysis under NEPA of the forest road system and its environmental and social impacts is especially critical in the context of climate change. As the CEQ's recent draft guidance on addressing climate change in NEPA analyses recognizes, "[c]limate change can increase the vulnerability of a resource, ecosystem, human community, or structure, which would then be more susceptible to climate change and other effects and result in a proposed action's effects being more environmentally damaging." CEQ, *Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts* (Dec. 18, 2014), page 22 (attached as Exhibit 8). The draft CEQ guidance makes clear that "[s]uch considerations are squarely within the realm of NEPA, informing decisions on whether to proceed with and how to design the proposed action so as to minimize impacts on the environment, as well as

informing possible adaptation measures to address these impacts, ultimately enabling the selection of smarter, more resilient actions.” *Id.*

Climate change intensifies the adverse impacts associated with roads. The Forest Service should consider the risk of increased disturbance when analyzing this proposed project. For example, as the warming climate alters species distribution and forces wildlife migration, landscape connectivity becomes even more critical to species survival and ecosystem resilience. Exhibit 8 at 9-14. *See also* USDA, Forest Service, *National Roadmap for Responding to Climate Change* at 26 (2011), available at <http://www.fs.fed.us/climatechange/pdf/Roadmapfinal.pdf> (recognizing importance of reducing fragmentation and increasing connectivity to facilitate climate change adaptation).

Climate change is also expected to lead to more extreme weather events, resulting in increased flood severity, more frequent landslides, altered hydrographs, and changes in erosion and sedimentation rates and delivery processes. Many National Forest roads are poorly located and designed to be temporarily on the landscape, making them particularly vulnerable to these climate alterations. Even those designed for storms and water flows typical of past decades may fail under future weather scenarios, further exacerbating adverse ecological impacts, public safety concerns, and maintenance needs. The Forest Service should analyze in detail the impact of climate change on forest roads and forest resources.

The President’s Executive Order 13,653 (Nov. 2013) provides direction on “Preparing the United States for the Impacts of Climate Change.” The Order recognizes that “[t]he impacts of climate change – including an increase in prolonged periods of excessively high temperatures, more heavy downpours, an increase in wildfires, [and] more severe droughts . . . – are already affecting communities, natural resources, ecosystems, economies, and public health across the Nation,” and that “managing th[o]se risks requires deliberate preparation, close cooperation, and coordinated planning . . . to improve climate preparedness and resilience; help safeguard our economy, infrastructure, environment, and natural resources; and provide for the continuity of . . . agency operations, services, and programs.” Exec. Order 13,653, § 1. To that end, the Order requires agencies to take various actions aimed at making “watersheds, natural resources, and ecosystems, and the communities and economies that depend on them, more resilient in the face of a changing climate.” *Id.* § 3. For example, “recognizing the many benefits the Nation’s natural infrastructure provides, agencies shall, where possible, focus on program and policy adjustments that promote the dual goals of greater climate resilience and carbon sequestration.” *Id.* Agencies also must develop and implement adaptation plans that “evaluate the most significant climate change related risks to, and vulnerabilities in, agency operations and missions in both the short and long term, and outline actions . . . to manage these risks and vulnerabilities.” *Id.* § 5(a).

The Forest Service’s 2014 adaptation plan recognizes that the wide range of environmental and societal benefits provided by our national forests “are connected and sustained through the integrity of the ecosystems on these lands.” *See* USDA Forest Service, *Climate Change Adaptation Plan*, page 58 (2014) (attached as Exhibit 9). The plan highlights USDA’s 2010-

2015 Strategic Plan Goal 2 of “[e]nsur[ing] our national forests . . . are conserved, restored, and made more resilient to climate change, while enhancing our water resources.” *Id.* at 58. And consistent with section 5(a) of Executive Order 13,653, the plan identifies numerous climate change risks – including increased wildfire, invasive species, increasing water temperatures, extreme weather events, and fluctuating precipitation and temperature – that “pose challenges to sustaining forests and grasslands and the supply of goods and services upon which society depends, such as clean drinking water, forest products, outdoor recreation opportunities, and habitat.” *Id.* at 60-64. With respect to transportation infrastructure specifically, the adaptation plan recognizes that, “[w]ith increasing heavy rain events, the extensive road system on NFS lands will require increased maintenance and/or modification of infrastructure (e.g. larger culverts or replacement of culverts with bridges).” *Id.* at 62.

The Forest Service’s Climate Change Adaptation Plan points to a number of actions to address the risks of climate change to our forests, and in particular to forest roads. For example, the plan highlights the 2012 Planning Rule as a mechanism to ensure that “National Forest System . . . land management planning policy and procedures include consideration of climate change.” Exhibit 9 at 73. The final directives to the planning rule echo the importance of designing plan components “to sustain functional ecosystems based on a future viewpoint” and “to adapt to the effects of climate change.” FSH 1909.12, ch. 20, § 23.11. The adaptation plan also points to Forest Service Manual 2020, which provides “Ecological Restoration and Resilience” directives designed “to restore and maintain resilient ecosystems that will have greater capacity to withstand stressors and recover from disturbances, especially those under changing and uncertain environmental conditions, including climate change and extreme weather events.” Exhibit 9 at 73.

Cumulative Effects

Cumulative effects (distinct from cumulative actions) are the effects on the environment resulting from the incremental impact of the action when added to other past, present, and reasonably foreseeable future projects. 40 C.F.R. § 1508.7. The Washington Office directed forests to consider adjacent subwatersheds for connected actions and cumulative effects.¹²

The Forest Service should analyze past roads decisions in this NEPA analysis. If those decisions have yet to be implemented, the Forest Service should incorporate those decisions in this proposed action. If the agency chooses to exclude past decisions that have yet to be implemented, it should explain why.

iv. The Forest Service must consider a reasonable range of alternatives.

¹² 2012 Weldon Memo at 2.

The alternatives analysis is the “heart” of NEPA, and therefore “an agency must *on its own initiative* study all alternatives that appear reasonable and appropriate for study at the time, and must also look into other significant alternatives that are called to its attention by other agencies, or by the public during the comment period afforded for that purpose.” *Dubois v. Dep't of Agriculture*, 102 F.3d 1273, 1291 (1st Cir. 1996), *quoting Seacoast Anti-Pollution League, v. Nuclear Reg. Comm'n*, 598 F.2d 1221, 1231 (1st Cir. 1979) (emphasis from *Dubois* court) (internal citations omitted). The alternatives analysis should present “impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options.” 40 C.F.R. § 1502.14. “Informed and meaningful consideration of alternatives . . . is thus an integral part of the statutory scheme” and “critical to the goals of NEPA even where a proposed action does not trigger the FEIS process.” *Bob Marshall Alliance v. Hodel*, 852 F. 2d 1223, 1228-29 (9th Cir. 1988) (citations omitted).

The Forest Service must include the MRS in every alternative it analyzes. Subpart A defines the MRS as that “needed for safe and efficient travel[;] for administration, utilization, and protection of [forest] lands[; and] to meet resource and other management objectives adopted in the relevant . . . plan.” 36 C.F.R. § 212.5(b)(1).

v. The Project should include monitoring requirements.

Monitoring the impacts of specific actions contemplated under the Project as they occur on the ground will be essential to ensure design features and potential mitigation measures are implemented and effective. We suggest that (1) monitoring follow the new BMP proposed directives (USFS 2014), (2) the forest dedicate personnel to evaluate BMP implementation and effectiveness and to sign off on specific projects (it is not enough to have a monitoring plan that simply uses project files or field observations as the compliance check), and (3) that this information be readily accessible to state and federal agencies, as well as interested stakeholders.

vi. MRS Conclusion.

The Forest Service’s current road system is over-sized and unaffordable. Identifying a sustainable road network is one of the most important endeavors the Forest Service can undertake to restore aquatic systems and wildlife habitat, facilitate adaptation to climate change, enhance recreation, and lower operating expenses. Considering the MRS and making investments to implement the MRS as soon as possible will end up saving taxpayer dollars by avoiding expensive repairs and other restoration tasks that would otherwise be inevitable in the future. Increasing the pace of restoration activities to implement a right-sized road system is incredibly important and long overdue.

VIII. The Forest Service must examine the effects of climate change on the project area, and the effects of the Project on climate change.

The DEIS must discuss and analyze the effects of climate change on the project area, but must also discuss and analyze the direct, indirect, and cumulative effects of the project on climate change. It is undisputed that deforestation contributes to climate change by eliminating carbon sinks and by releasing stored carbon from harvested trees. This is complicated by the fact that the Project contemplates salvage logging, however the analysis still must be completed. A number of species – such as Canada lynx – are also adversely impacted by climate change, and the climate change analysis must also contain an analysis of impacts to species. As part of this analysis, the Forest Service must also analyze the social cost of any carbon released or any sequestration capability diminished.

CONCLUSION

Thank you very much for your consideration of our comments. Please do not hesitate to reach out to us if you would like to discuss any of our comments in greater detail. We look forward to working with the Rio Grande National Forest as this project is developed.

Finally, we respectfully request that you add our names and organizations to the contact list for future updates related to the Project.

Sincerely,



John R. Mellgren
Western Environmental Law Center
1216 Lincoln Street
Eugene, Oregon 97401
Ph: (541) 359-0990
Email: mellgren@westernaw.org



Greg Dyson, Public Lands Director
WildEarth Guardians
2590 Walnut Street
Denver, Colorado 80205
Ph: (503) 730.9242
Email: gdyson@wildearthguardians.org



Lauren McCain, Federal Lands Policy
Analyst
Defenders of Wildlife
535 16th Street., Suite 310
Denver, Colorado 80202
Ph: (720) 943-0453
Email: lmccain@defenders.org

Attachments: List of Exhibits and Nine Exhibits

Exhibit 1: Theobald, David and Shenk, Tanya, AREAS OF HIGH HABITAT USE FROM 1999-2010 FOR RADIO COLLARED CANADA LYNX REINTRODUCED TO COLORADO (MARCH 31, 2011)

Exhibit 2: Ivan, Jake et al., PREDICTIVE MAP OF CANADA LYNX HABITAT USE IN COLORADO (2012)

Exhibit 3: Shenk, Tanya, PEER REVIEW COMMENTS ON REVISED DESIGNATION OF CRITICAL HABITAT FOR THE CONTIGUOUS U.S. DISTINCT POPULATION SEGMENT OF THE CANADA LYNX AND REVISED DISTINCT POPULATION SEGMENT BOUNDARY, Communication to Jim Zelenak–USFWS (January 29, 2014)

Exhibit 4: Squires, John et al., SEASONAL RESOURCE SELECTION OF CANADA LYNX IN MANAGED FORESTS OF THE NORTHERN ROCKY MOUNTAINS, 74 J. OF WILDLIFE MGMT. 1648–1660 (2010)

Exhibit 5: Dorsey, Patricia (Southwest Region Manager for Colorado Parks and Wildlife), Comments on the GMUG National Forest’s SBEADMR Project, July 28, 2015

Exhibit 6: Maps: Opportunities for Wildlife Corridors in the Upper Rio Grande Watershed

Exhibit 7: The Wilderness Society, *Transportation Infrastructure and Access on National Forests and Grasslands: A Literature Review* (May 2014)

Exhibit 8: Council on Environmental Quality, *Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts* (Dec. 18, 2014)

Exhibit 9: USDA Forest Service, *Climate Change Adaptation Plan* (2014)