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August 2, 2022

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RE: Significant New Information Regarding the Flat Country Project, Willamette National Forest

Dear Regional Forester Casamassa, Forest Supervisor Warnack, and District Ranger Cross:

I am contacting you on behalf of Cascadia Wildlands and Oregon Wild. I wish to bring to your attention significant new circumstances and information relevant to environmental concerns and bearing on the Flat Country Project (“Flat Country” or “Project”) and its impacts. This significant new information falls into two different categories: 1) significant new law and policy (i.e., Executive Orders, Presidential Memoranda, and Secretarial Memoranda); and 2) significant new circumstances and information pertaining to the 2020 Holiday Farm Fire.

As you are aware, “the purpose of NEPA is to foster better decision making and informed public participation for actions that affect the environment.” *Or. Natural Res. Council Action v. U.S. Forest Service*, 293 F.Supp.2d 1200, 1204 (D. Or. 2003)(“*ONRC*”) (citing 42 U.S.C. § 4321; 40 C.F.R. § 1501.1(c)). “It ensures that the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts; it also guarantees that the relevant information will be made available to the larger audience that may also play a role in both the decisionmaking process and the implementation of that

decision.” *Friends of the Clearwater v. Dombek*, 222 F.3d 552, 557 (9th Cir. 2000) (quoting *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349, 109 S.Ct. 1835 (1989)). “Stated differently, NEPA’s purpose is to ensure that ‘the agency will not act on incomplete information, only to regret its decision after it is too late to correct.’” *Id.*

“In view of this purpose, an agency that has prepared an EIS cannot simply rest on the original document. The agency must be alert to new information that may alter the results of its original environmental analysis, and continue to take a ‘hard look at the environmental effects of its planned action, even after a proposal has received initial approval.’” *Friends of the Clearwater*, 222 F.3d at 557 (quoting *Marsh* 490 U.S. at 374); *Blue Mountains Biodiversity Project v. U.S. Forest Service*, 229 F.Supp.2d 1140, 1148 (D. Or. 2002). Indeed, when a “major federal action” remains to occur and the initial NEPA document does not adequately discuss “significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts,” then the action agency is required to supplement the existing environmental analysis. 40 C.F.R. § 1502.9(c)(1)(ii); *Marsh v. Or. Natural Res. Council*, 490 U.S. 360, 371, 374 (1989); *Or. Natural Res. Council Action v. United States Forest Serv.*, 2004 U.S. Dist. LEXIS 59034, at *24 (D. Or. Aug. 9, 2006).

There are two categories of significant new circumstances and information relevant to environmental concerns and bearing on the Flat Country Project and its impacts that require supplementation of the Flat Country Final Environmental Impact Statement (“FEIS”): 1) significant new law and policy (i.e., Executive Orders, Presidential Memorandum, and Secretarial Memorandum); and 2) significant new circumstances and information pertaining to the 2020 Holiday Farm Fire. 40 C.F.R. § 1502.9(c)(1)(ii).

Significant New Law and Policy.

As one of his first acts as President, Joe Biden issued a Memorandum for the Heads of Executive Departments and Agencies titled *Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking*. 86 Fed. Reg. 8,845 (Jan. 27, 2021). The Memorandum states that, as opposed to the prior Administration,

It is the policy of my Administration to make evidence-based decisions guided by the best available science and data. Scientific and technological information, data, and evidence are central to the development and iterative improvement of sound policies, and to the delivery of equitable programs, across every area of government. Scientific findings should never be distorted or influenced by political considerations. When scientific or technological information is considered in policy decisions, it should be subjected to well-established scientific processes, including peer review where feasible and appropriate, with appropriate protections for privacy. Improper political interference in the work of Federal scientists or other scientists who support the work of the Federal Government and in the communication of scientific facts undermines the welfare of the Nation, contributes to systemic inequities and injustices, and violates the trust that the public places in government to best serve its collective interests.

This Memorandum thus clearly established a federal policy of making decisions based on the best available science and not political or other considerations. *Id.*

Also on January 27, 2021, President Biden signed Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad* (“EO 14008”). 86 Fed. Reg. 7,619 (Feb. 1, 2021). EO 14008 states that

Section 101. Policy. United States international engagement to address climate change—which has become a climate crisis—is more necessary and urgent than ever. The scientific community has made clear that the scale and speed of necessary action is greater than previously believed. There is little time left to avoid setting the world on a dangerous, potentially catastrophic, climate trajectory. Responding to the climate crisis will require both significant short-term global reductions in greenhouse gas emissions and net-zero global emissions by mid-century or before.

It is the policy of my Administration that climate considerations shall be an essential element of United States foreign policy and national security. The United States will work with other countries and partners, both bilaterally and multilaterally, to put the world on a sustainable climate pathway. The United States will also move quickly to build resilience, both at home and abroad, against the impacts of climate change that are already manifest and will continue to intensify according to current trajectories....

It is the policy of my Administration to organize and deploy the full capacity of its agencies to combat the climate crisis to implement a Government-wide approach that reduces climate pollution in every sector of the economy; increases resilience to the impacts of climate change; protects public health; conserves our lands, waters, and biodiversity; delivers environmental justice; and spurs well-paying union jobs and economic growth, especially through innovation, commercialization, and deployment of clean energy technologies and infrastructure. Successfully meeting these challenges will require the Federal Government to pursue such a coordinated approach from planning to implementation, coupled with substantive engagement by stakeholders, including State, local, and Tribal governments.

Id. at 7,622. EO 14008 goes on to explain that in order to meet the climate crisis,

Sec. 216. Conserving Our Nation’s Lands and Waters. (a) The Secretary of the Interior, in consultation with the Secretary of Agriculture, the Secretary of Commerce, the Chair of the Council on Environmental Quality, and the heads of other relevant agencies, shall submit a report to the Task Force within 90 days of the date of this order recommending steps that the United States should take, working with State, local, Tribal, and territorial governments, agricultural and forest landowners, fishermen, and other key stakeholders, to achieve the goal of conserving at least 30 percent of our lands and waters by 2030.

Id. at 7,627. EO 14008 therefore establishes as policy that federal departments and agencies shall place climate change and actions to address it at the center of their decisionmaking and shall seek to conserve 30% of national lands and waters by 2030. And, in light of the Memorandum *Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking*, such decisions and conservation actions shall be made based on the best available science.

On Earth Day 2022, President Biden signed Executive Order 14072, *Strengthening the Nation's Forests, Communities, and Local Economies*. 87 Fed. Reg. 24,851 (April 22, 2022). This EO explains that

Section 1. Policy. Strengthening America's forests, which are home to cherished expanses of mature and old-growth forests on Federal lands, is critical to the health, prosperity, and resilience of our communities—particularly in light of the threat of catastrophic wildfires. Forests provide clean air and water, sustain the plant and animal life fundamental to combating the global climate and biodiversity crises, and hold special importance to Tribal Nations. We go to these special places to hike, camp, hunt, fish, and engage in recreation that revitalizes our souls and connects us to history and nature. Many local economies thrive because of these outdoor and forest management activities, including in the sustainable forest product sector....

It is the policy of my Administration, in consultation with State, local, Tribal, and territorial governments, as well as the private sector, nonprofit organizations, labor unions, and the scientific community, to pursue science based, sustainable forest and land management; conserve America's mature and old-growth forests on Federal lands; invest in forest health and restoration; support indigenous traditional ecological knowledge and cultural and subsistence practices; honor Tribal treaty rights; and deploy climate-smart forestry practices and other nature-based solutions to improve the resilience of our lands, waters, wildlife, and communities in the face of increasing disturbances and chronic stress arising from climate impacts. It is also the policy of my Administration, as outlined in *Conserving and Restoring America the Beautiful*, to support collaborative, locally led conservation solutions....

Sec. 2. Restoring and Conserving the Nation's Forests, Including Mature and Old-Growth Forests. My Administration will manage forests on Federal lands, which include many mature and old-growth forests, to promote their continued health and resilience; retain and enhance carbon storage; conserve biodiversity; mitigate the risk of wildfires; enhance climate resilience; enable subsistence and cultural uses; provide outdoor recreational opportunities; and promote sustainable local economic development....

Id. at 24,851-52. “To further conserve mature and old-growth forests and foster long-term United States forest health through climate-smart reforestation for the benefit of Americans today and for generations to come,” EO 14072 directs the Secretaries of Agriculture and Interior to “define,

identify, and complete an inventory of old-growth and mature forests on Federal lands” and then to “coordinate conservation and wildfire risk reduction activities, including consideration of climate-smart stewardship of mature and old-growth forests” with federal and nonfederal entities including Tribes, “analyze the threats to mature and old-growth forests on Federal lands, including from wildfires and climate change,” and finally to “develop policies...to institutionalize climate-smart management and conservation strategies that address threats to mature and old-growth forests on Federal lands.” *Id.* at 24,852.

Finally, on June 23, 2022, Secretary of Agriculture Tom Vilsack issued Secretarial Memorandum 1077-004, *Climate Resilience and Carbon Stewardship of America’s National Forests and Grasslands* to meet some of the obligations of the Department of Agriculture imposed by EO 14072. United States Department of Agriculture, *Climate Resilience and Carbon Stewardship of America’s National Forests and Grasslands* (June 23, 2022), <https://www.usda.gov/directives/sm-1077-004>. In addition to recognizing the threat posed to national forests from climate change and the value of and role that forests play in combating the climate crisis, the Secretary directed the Chief of the Forest Service to “carry out immediate actions to accelerate climate resilience and carbon stewardship” on national forestlands. *Id.* at 1, 7. These actions include defining and inventorying mature and old growth forests and then taking action “to protect, maintain, restore, and cultivate old-growth and mature stand characteristics within the National Forest System, grounded in science-based principles of carbon stewardship optimization considering a range of management strategies, and recognizing complementary opportunities and tradeoffs with other ecosystem values including water, wildlife, and biodiversity and social values such as wildfire risk to communities and source-water watersheds.” *Id.* at 7-8.

Taken together, these Presidential Memorandum, Executive Orders, and Secretarial Memorandum are new laws and policies that did not exist when District Ranger Cross signed the Flat Country Record of Decision (ROD) in January 2021. The ROD does not list or evaluate its consistency with these laws and policies, and does not assess the decision to implement the Flat Country Project in light of their clear direction to: 1) make decisions affecting federal lands based on the best available science; 2) make decisions affecting federal lands in light of the climate crisis, which demands the maximization of carbon sequestration in long-lived carbon stores and stocks such as mesic mature and old growth forests, particularly when that sequestration will also maximize other ecosystem values in the McKenzie River Watershed; 3) conserve 30% of the nation’s lands and waters by 2030 to meet the climate and biodiversity crises; 4) manage mature and old growth forests on federal lands to “promote their continued health and resilience; retain and enhance carbon storage; conserve biodiversity; mitigate the risk of wildfires; enhance climate resilience; enable subsistence and cultural uses; provide outdoor recreational opportunities; and promote sustainable local economic development; 5) coordinate conservation of mature and old-growth forests; and 6) institutionalize climate-smart management and conservation strategies for mature and old growth forests on federal lands.

The purpose and need of the Flat Country Project is “to ensure the Willamette National Forest continues to provide a reliable supply of timber products...and contribute[] to the annual

Probable Sale Quantity (PSQ) target of the forest.”¹ FEIS at 1. This purpose and need is antithetical to the foregoing significant new law and policy because rather than conserve older forests,² the Project will harvest 3,115 acres of forest older than 80 years of age. The decision to implement the Flat Country Project is inconsistent with the best available science, memorialized in EO 14008 and Presidential Memorandum *Restoring Trust in Government Through Scientific Integrity and Evidence-Based Policymaking*, which indicates that conserving – and not logging – carbon-rich mature and old growth forests such as those in the Flat Country planning area is the policy of the Administration.

The new information and circumstances represented by these Presidential Memorandum, Executive Orders, and Secretarial Memorandum are significant because they set forth opposing federal law and policy from what existed when the Flat Country ROD was signed. Major federal action remains to occur because the Forest Service has not yet offered for sale any timber approved for harvest by the Flat Country FEIS and ROD. This significant new information is relevant to the environmental concerns and effects of the Flat Country Project because it calls for the protection of the older forests currently scheduled for harvest. Thus, the new law and policy described *supra* is “significant new information and circumstances” for the purposes of NEPA, and supplementation of the underlying analysis is required. 40 C.F.R. § 1502.9(c)(1)(ii); *Marsh*, 490 U.S. at 373-74 (1989); *League of Wilderness Defs./Blue Mountains Biodiversity Project v. Connaughton*, 752 F.3d 755, 760 (9th Cir. 2014); *Klamath Siskiyou Wildlands Center v. Boody*, 468 F.3d 549, 562 (9th Cir. 2006) (requiring the preparation of a supplemental EIS after the agency changed a policy upon which the original EIS had relied).

Significant New Circumstances and Information Pertaining to the 2020 Holiday Farm Fire.

On Labor Day 2020, several wildfires began in western Oregon, driven by high winds and temperatures, low relative humidity, existing drought conditions, and climate change. One of these fires, the Holiday Farm Fire, burned more than 231,000 acres or 27% of the McKenzie River Watershed to the west of the Flat Country planning area. Prior to 2020, approximately 77,190 acres of the Watershed, or about 9%, had experienced wildfire. Collectively, the Holiday Farm Fire and other Labor Day 2020 wildfires burned across millions of acres of federal and nonfederal lands, causing dramatic changes to forest and vegetation composition. In particular, these wildfires burned thousands of acres of mature and old growth forests that otherwise would not have experienced fire for hundreds of years. The quality and arrangement of suitable wildlife habitat has changed significantly as a result of the Holiday Farm Fire and the other 2020 Labor

¹ The Flat Country Project would yield approximately 102 million board feet (MMbf) of timber. FEIS at 1.

² Although the significant new law and policy discussed *supra* directs the Departments of Agriculture and Interior to define and spatially identify mature and old forests across the federal estate, the Forest Ecosystem Management Assessment Team report, to which the Northwest Forest Plan and Willamette National Forest Land and Resource Management Plan refer, has already defined mature forests as 80-100 years old and old growth forests as stands older than 180 years old. Forest Inventory and Analysis and stand exam data also already exist for the Flat Country planning area, thus identifying where on the landscape this older forest is located.

Day Fires.

The Forest Service published the Flat Country FEIS in June 2020, three months before the onset of the Labor Day Fires. There are numerous assumptions and analyses in the FEIS that are no longer valid in light of the extensive change in vegetative conditions as a result of the Holiday Farm Fire in the McKenzie River Watershed, as well as the other large Labor Day Fires that burned adjacent watersheds.³ An accounting of those assumptions and analyses is provided in Attachment A. The significant new information and circumstances presented by the Holiday Farm Fire as outlined in Attachment A require the Forest Service to supplement its environmental analysis. *Connaughton*, 752 F.3d at 760.

In response to the Holiday Farm Fire, nonfederal landowners conducted extensive post-fire salvage logging operations of burned and associated unburned forest. Sarah-Mae McCullough, *After the Fires*, EUGENE WEEKLY, May 28, 2021, available at <https://eugeneweekly.com/2021/05/28/after-the-fires/>; Oregon Wild, *Planned, Completed, and Ongoing Logging of 2020 Fire Landscapes Holiday Farm Fire* (July 12, 2022), <https://oregonwild.org/sites/default/files/pdf-files/PostFireLoggingHolidayFarm4.14.21.pdf>; KTVZ, *Owners of Oregon's fire-hit private forests scramble to remove dead trees, replant*, Jan. 8, 2021, available at <https://ktvz.com/news/-oregon-northwest/2021/01/08/owners-of-oregons-fire-hit-private-forests-scramble-to-remove-dead-trees-replant/>. Federal land managers also proposed and implemented post-fire logging operations on federal lands. Adam Duvernay, *BLM approves 910-acre salvage harvest in Holiday Farm Fire area*, EUGENE REGISTER GUARD, June 3, 2021, available at https://www.registerguard.com/-story/news/2021/06/03/blm-approves-910-acre-salvage-tree-harvest-holiday-farm-fire-area/7498377002/?fbclid=IwAR1zrdMexhwyX3aj-VseikMZFG_f9F2VgPjtQYwcUspdm1-TmDpDnHq3QvSI. As a consequence, local milling infrastructure quickly became flooded, and in some instances could not process the available volume. Amanda Arden, *Oregon timber owners work feverishly to salvage burned wood*, KOIN 6 NEWS, Dec. 21, 2020, available at <https://www.koin.com/-news/special-reports/oregon-timber-owners-work-feverishly-to-salvage-burned-wood/>.

³ While this letter is primarily concerned with the significant new information and circumstances that bear on the effects analysis for the Flat Country Project as a result of the Holiday Farm Fire, other large 2020 wildfires also affect the effects analysis for Flat Country. For example, the Archie Creek, Beachie Creek, Lionshead, and Riverside Fires burned adjacent and proximate watersheds, changing the quality of habitat available to wide-ranging wildlife species such as the northern spotted owl. Because owls can disperse and travel great distances, the composition and quality of dispersal habitat (and other habitat types) determines the success of dispersal and colonization events. And because the quality and arrangement of habitat types has changed greatly as a result of the 2020 wildfires, it is likely that spotted owls are frequently adjusting their home ranges (“shifting”), making remaining unburned habitat even more critical to the persistence of the species. A range-wide analysis of what quality of habitat remains where on the landscape, and whether and how spotted owls are using this habitat (including in light of persistent barred owl competition), is therefore necessary to accurately assess the effects of projects such as Flat Country. Equally significant are the impacts on spotted owl prey species red tree voles, whose habitat across their range has been severely fragmented by industrial logging.

In May 2022, the Forest Service announced that it was lowering the expected PSQ for each National Forest in Region 6, including the Willamette National Forest. United States Forest Service, *2022 AFRC Annual Meeting Breakout Handout – USDA Forest Service: Region 6* (undated [May 2022]). The reason for the regionwide decrease in targets remains unclear.

Since the Labor Day Fires, nonfederal timber volume has flooded local wood processing infrastructure. Coincidentally or not, the Regional Office also reduced the PSQ for the Willamette National Forest. While contributing a sustainable supply of raw wood to support local infrastructure and communities remains a multiple use of the Willamette National Forest, the predicted PSQ from Flat Country – 102 MMbf – far exceeds the new PSQ of 35 MMbf of timber for FY22 and FY23, or even the 50-75 MMbf predicted for outyears. The high volume predicted from Flat Country therefore is simply unnecessary to sustain local industry and communities, prompting a need to supplement the analysis in the Flat Country FEIS. *Tongass Conservation Soc’y v. Cole*, 2009 U.S. Dist. LEXIS 129952, at *20-21 (D. Alaska Dec. 7, 2009); *NRDC v. United States Forest Serv.*, 421 F.3d 797, 811-812 (9th Cir. 2005); *Hughes River Watershed Conservancy v. Glickman*, 81 F.3d 437 (4th Cir. 1996); *Nat’l Wildlife Fed’n v. Nat’l Marine Fisheries Serv.*, 235 F. Supp.2d 1143, 1157 (W.D. Wash. 2002); *Cascadia Wildlands v. U.S. Forest Serv.*, 791 F. Supp. 2d 979, 984–87, 991–93 (D. Or. 2011).

The new information and circumstances described *supra* are significant and therefore require supplemental environmental analysis. In the alternative, the Forest Service could issue a new Record of Decision adopting an alternative that only harvests immature forest stands less than 80 years of age. A new administrative objection period would be required, 36 C.F.R. § 218.22(d), but would be consistent with the significant new law and policy and changed circumstances outlined in this letter. Focusing on the restoration of younger forests through active management would be consistent with new law and policy requiring the Forest Service to make evidence-based land management decisions based on the best available science and climate-smart forestry practices. While active management can play a role in creating climate-resilient forests in some ecotypes, the mesic mature and old forests of Flat Country are best conserved by refraining from programming them for harvest.⁴

Given the importance of combating the climate and biodiversity crises by conserving mature and old forests on federal lands, we wish to bring these significant new changes in law, policy, and facts pertaining to the harvest of mature and old growth forests on the Willamette National Forest to your attention. We believe this information is directly relevant to the environmental

⁴ We are acutely aware that the Flat Country Project is located in the matrix land use allocation and therefore subject to programmed timber harvest under the Northwest Forest Plan, regardless of stand age. However, there is no *requirement* to schedule older stands for harvest, *Perkins v. Bergland*, 608 F.2d 803, 806 (9th Cir.1979); *Oregon Nat. Res. Council v. Lowe*, 836 F. Supp. 727, 733 (D. Or. 1993), *aff’d*, 109 F.3d 521 (9th Cir. 1997); *California Forestry Ass’n v. Bosworth*, 2008 WL 4370074, at *4 (E.D. Cal. 2008); *Intermountain Forest Indus. Ass’n v. Lyng*, 683 F. Supp. 1330, 1337–38 (D. Wyo. 1988), particularly in light of the significant new law and policy discussed herein.

consequences of the Flat Country Project and may change the effects determinations reached by the Forest Service. To that end, we request that you undertake supplemental environmental analysis regarding the effects of the Flat Country Project on the environment in light of the new law and policy outlined *supra*. *Seattle Audubon Soc. v. Espy*, 998 F.2d 699, 704 (9th Cir. 1993) (an agency must re-examine its decision when the EIS “rests on stale scientific evidence...and false assumptions”).

We look forward to reviewing the Forest Service’s supplemental analysis, and would like to discuss it with you before October 17, 2022. If you have any questions about this letter, please do not hesitate to contact me.

Sincerely,



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Attachment A:

**Flat Country FEIS & ROD
Assumptions & Analyses**

FEIS & ROD Assumptions & Analyses	Significant New Information and Changed Circumstances
<p>Existing Condition: All stands proposed for harvest in the project area are overstocked, or showing signs of reduced growth from competition with an average SDI of 442, or 74 percent of SDI_{max}. This condition is a result of planting densities employed after clearcut harvest in the past and fire suppression.</p> <p>Desired Condition: Healthy, vigorous stands with an average SDI at or below 207. A level which maximizes individual tree growth before transitioning into maximizing stand growth which starts around an SDI of 208.</p> <p>Based on the Upper McKenzie Watershed Analysis (McKenzie River Ranger District, 1995), the overall vegetation has shifted from a predominance of early-seral (0-30 yrs.) conditions in the early 1900's to a predominance of mid (31-80 yrs.) to late (>80 yrs.) seral conditions in the present time. This shift corresponds to the era of fire suppression that began in approximately 1910. Diversity at the landscape level is currently decreasing as a result of past timber harvest practices and the exclusion of fire. The natural mosaic pattern created on a landscape when fire is allowed to function naturally is being lost. (FEIS, 19)</p>	<p>The Holiday Farm Fire dramatically shifted the distribution of age classes across the McKenzie River Watershed. The “natural mosaic pattern” provided by natural fire has changed as a result of the Holiday Farm Fire.</p>
<p>Regeneration of shade intolerant tree species such as Douglas-fir, western white pine, and sugar pine would continue to be restricted until a natural disturbance occurs such as wind-throw or fire....</p> <p>In addition, barring a wildfire or other natural disturbances, and as a result of ingrowth and</p>	<p>Regeneration of shade intolerant tree species is no longer restricted given the disturbance created by the Holiday Farm Fire.</p> <p>The acreage of early-seral wildlife habitat has changed as a result of the Holiday Farm Fire, likely increasing substantially. Complex</p>

<p>lack of management created early-seral habitat, the current acreage of early-seral habitat for wildlife species would decline. (FEIS, 73)</p>	<p>early-seral forest stands provide significant wildlife habitat and benefits.</p>
<p>Shelterwood with reserves will contribute to the under-represented age classes (0-30 years) across this landscape helping ensure sustainable forests for future generations in perpetuity and thus help provide a sustainable supply of timber products. (FEIS, 77)</p>	<p>“Under-represented” age classes (0-30 years) has increased substantially as a result of the Holiday Farm Fire and may no longer be “under-represented.”</p>
<p>Effects to forest stand and structure from Alternatives 2 and 3 overlap in time and space with effects from five past projects. The Norse CE Project was completed in 2013 and treated approximately 65 acres including approximately five acres of gaps. The Pass CE Project was completed in 2013 and treated approximately 34 acres including approximately five acres of gaps. The Muskee CE Project was completed in 2015 and treated approximately 67 acres including a one acre gap. The Dulce CE Project was completed in 2017 and treated approximately 51 acres including approximately three acres of gaps. The Ollie CE Project was completed in 2018 and treated approximately 44 acres including approximately four acres of gaps. The past five projects created 18 acres of gaps that will fill in over 5-8 years after completion and therefore will have a cumulative effect until vegetation totally fills in the gaps.</p> <p>Cumulatively, Flat Country Alternative 2 will contribute 3,439 acres (thinning, shelterwood with reserves, DTRs and gaps) of enhanced vegetative structural complexity and early-seral habitat to the planning area, bringing the total to 3,700 acres. Fuel treatments on these five past projects will be complete prior to the implementation of the Flat Country Project, therefore no cumulative effect to fuel loading is anticipated. (FEIS, 79-80)</p>	<p>Early-seral habitat has increased in the McKenzie River Watershed as a result of the Holiday Farm Fire. There may no longer be a need to create this habitat type on the landscape through the proposed timber harvest.</p>
<p>Fire has been suppressed in the watershed for over 100 years, and historic logging practices have greatly altered vegetation patterns. As a result, there is a lack of early-seral vegetation</p>	<p>The Holiday Farm Fire was a significant disturbance event that resisted suppression. Early-seral habitat has increased in the McKenzie River Watershed as a result of the</p>

<p>within the entire Upper McKenzie watershed. Within the project area, less than 1 percent of Riparian Reserve vegetation is currently early-seral (<20 years old). The natural range of variability is between 5 and 20 percent (Swanson 2012); and a large component of this early-seral vegetation is deciduous and herbaceous, particularly within riparian areas (Gregory et al. 1991). The determination that early-seral vegetation is underrepresented in the project area is supported by a study (Acker et. al, in preparation) which found that streams in the Flat Country project area had a lower proportion of sapling/pole sized riparian vegetation and a higher proportion of small/medium sized riparian vegetation, as compared to reference conditions in the High Cascades ecoregion. (FEIS, 94)</p>	<p>Holiday Farm Fire. There may no longer be a need to create this habitat type on the landscape through the proposed timber harvest. Riparian and terrestrial reference conditions have changed.</p>
<p>Based on the fact that there is a lack of early-seral vegetation classes that have a large deciduous and herbaceous component, it follows that these species are underrepresented on the current landscape. These deciduous and herbaceous species provide many benefits to riparian and aquatic ecosystems, including better food resources and higher productivity for aquatic invertebrates compared to conifer-dominant systems (Sedell and Dahm 1984; Webster and Benfield 1986; Romero et al. 2005; Allen 1995; Wipfli 1997; Wipfli and Gregovich 2002; Cummins 2002; Allan et al. 2003; Musselwhite and Wipfli 2004; Wilzbach et al. 2005; Kiffney and Roni 2007); increased nitrogen fixation, organic matter cycling, and soil fertility (Compton et al. 2003); and wildlife benefits. (FEIS, 95)</p>	<p>Early-seral vegetation, including deciduous and herbaceous cover, has increased in the McKenzie River Watershed as a result of the Holiday Farm Fire. There may no longer be a need to create this habitat type on the landscape through the proposed timber harvest.</p>
<p>Fire has historically been a dominant disturbance type in the project area, increasing the amount of dead standing trees available as a future wood source. However, fire has been, and would continue to be, suppressed, further reducing large wood recruitment in project area streams. Without management to increase the abundance of deciduous and herbaceous vegetation in</p>	<p>The Holiday Farm Fire, which resisted suppression, has created a significant pulse of dead and down wood and increased the light and nutrients available for deciduous and herbaceous vegetation to flourish in riparian and upland terrestrial environments. There may no longer be a need to create this habitat type on the landscape through the proposed timber harvest.</p>

<p>dense, conifer-dominant stands, ecosystem productivity in Riparian Reserves would remain at relatively low levels. (FEIS, 97-98)</p>	
<p>Federal timber sales and pre-commercial thinning are ongoing in the project area, and the cumulative effects are a reduction in Riparian stand densities and a short term (1-2 decades) reduction in small woody material. All recent and planned timber harvest, riparian habitat complexity development, and road decommissioning projects were and will be designed with similar protection measures, design features, and Best Management Practices that minimize effects to water quality and aquatic resources. Each of the projects listed in the Past, Present, and Reasonably Foreseeable Actions Relevant to the Cumulative Effects Analysis (Appendix F) were analyzed for effects to riparian condition and were found to have no effect, negligible effect, or beneficial effects. The negligible or beneficial effects combined with the minor impacts expected from the Flat Country project will not measurably contribute to impaired riparian conditions. (FEIS, 105)</p>	<p>Federal and nonfederal post-fire salvage logging has occurred in the wake of the Holiday Farm Fire, changing the predicted cumulative effects from the Flat Country Project. The Fire likely changed riparian and terrestrial stand densities in the watershed, and there is no indication what best management practices were employed by federal and nonfederal actors to conduct post-fire salvage operations.</p>
<p>...there would be an increased risk of high severity wildfire, which can be carried more efficiently through dense stands, which may affect water quality in the future. The corresponding loss of vegetation and duff may affect temperatures and microclimates around the edges of the streams and wetlands. Intermittent (class 4) streams and seasonal wet meadows go dry during the summer when temperatures are typically an issue. Increased stream temperatures are not expected in most of the class 4 streams in the project area under current vegetation conditions or after a high-severity fire. However, temperatures and microclimates of perennial streams would be affected by a high-severity fire. (FEIS, 107)</p>	<p>The Holiday Farm Fire may have caused a change in water temperatures as a result of the loss of canopy cover over streams. Further reduction of canopy cover as a result of timber harvest may exacerbate water temperature changes downstream, resulting in a violation of the Aquatic Conservation Strategy (ACS).</p>
<p>Current ARP levels in the Upper McKenzie watershed are above the Forest Plan Midpoints. (FEIS, 109)</p>	<p>The Holiday Farm Fire may have changed Aggregate Recovery Percentage (ARP) values in the Watershed. Further canopy removal through timber harvest may increase peak</p>

	flows and change other water quality and quantity parameters, in violation of the ACS.
ARP levels are maintained above recommended Midpoint values for both action alternatives in the affected planning subdrainages, even immediately after implementation when the potential for adverse impacts to vegetation will be greatest. Therefore, no altered peak stream flows are anticipated from implementation of the proposed actions. (FEIS, 110)	The Holiday Farm Fire may have changed Aggregate Recovery Percentage (ARP) values in the Watershed. Further canopy removal through timber harvest may increase peak flows and change other water quality and quantity parameters, in violation of the ACS.
ARP levels will remain well above the midpoint so effects to peak flows throughout the watershed are not expected by vegetation removal. (FEIS, 111)	The Holiday Farm Fire may have changed Aggregate Recovery Percentage (ARP) values in the Watershed. Further canopy removal through timber harvest may increase peak flows and change other water quality and quantity parameters, in violation of the ACS.
For both action alternatives, annual sediment yield increases during harvest activities, which includes road upgrades, maintenance and timber haul on system and non-system roads. This represents an estimated 16-24 percent increased contribution of sediment that cumulatively adds to sediment already produced under the existing road system...By implementing either Alternative, overall human caused sediment input will eventually decrease to an estimated 3-14 percent from current levels following the completion of project related activities. (FEIS, 113)	The Holiday Farm Fire and federal and nonfederal salvage logging operations in the McKenzie River Watershed may result in increased sedimentation to waterways. Sediment input from the Flat Country Project may result in additional turbidity, in violation of the ACS.
The McKenzie River Sub-Basin, which includes the Flat Country project area, provides municipal water to the City of Eugene by way of the Eugene Water and Electric Board's intake at Hayden Bridge, approximately 60 miles downstream from the project area. Sedimentation and associated turbidity are the most likely consequences of the Flat Country Project that could adversely affect municipal water quality; but with the design features that restrict the location of skid roads and temporary roads as well as best management practices, adverse effects are not anticipated. (FEIS, 114)	The Holiday Farm Fire and federal and nonfederal salvage logging operations in the McKenzie River Watershed may result in increased sedimentation to waterways. Project design features may not be sufficient to address the cumulative increased sedimentation from the Fire, salvage logging, and the Flat Country Project.
The only activity listed in appendix F, that in combination with effects from the Flat	The Holiday Farm Fire and federal and nonfederal salvage logging operations are

<p>Country Project, will have effects on fish and caddisflies will be the Robinson Scott EIS. (FEIS, 137)</p>	<p>other events and activities that may have direct, indirect, and cumulative effects on fish and caddisflies.</p>
<p>...at the range-wide scale, the process of forest succession has compensated for much of the losses resulting from disturbance. Results also showed that large wildfires are the leading cause for loss of northern spotted owl habitat on federal lands. (FEIS, 143)</p>	<p>Forest succession has been reset to stand initiation in the portions of the McKenzie River Watershed burned by the Holiday Farm Fire. The Fire resulted in the extensive alternation of northern spotted owl habitat.</p>
<p>The current low density of snags and the greater percentage of areas lacking higher levels of snags compared to historic conditions is due to past harvest and fire suppression practices. Past clearcut logging removed existing snags and trees that could provide future snags. Fire suppression has allowed for very little change in burned area and the frequency distribution of snag densities. For example, in the Headwaters McKenzie River Watershed, the fires of 2017 burned less than 1 percent of the area within the Westside Lowland Conifer-Hardwood wildlife habitat type, 6 percent of the area within the Montane Mixed Conifer wildlife habitat type (Acker 2018), and caused very little change in the frequency distribution of snag densities.</p> <p>Due to the lack of areas with high levels of snags, hundreds of snags have been created since the late 1980s in various harvest units in the Headwaters McKenzie River watershed. (FEIS, 150)</p>	<p>The Holiday Farm Fire burned approximately 27% of the McKenzie River Watershed, therefore dramatically changing the density of snags in the planning area. There may no longer be a need to create snags through artificial means.</p>
<p>[Incidental take is] Not reasonably certain to occur, because occupied territories would not be impaired and no disruption to territorial spotted owls would occur. (FEIS, 152)</p>	<p>The Holiday Farm Fire changed the environmental baseline with respect to the quality, availability, and arrangement of suitable spotted owl habitat in the McKenzie River Watershed. Additional suitable habitat removal through timber harvest may result in the incidental (or direct) take of northern spotted owls. Reinitiation of Section 7 consultation is required. 50 C.F.R. § 402.16(a)(2); <i>Salmon Spawning & Recovery All. v. Gutierrez</i>, 545 F.3d 1220, 1229 (9th Cir. 2008) (duty to reinitiate lies with both the consulting and action agencies).</p>

<p>Table 42. Alternative 2: Summary of the Effects on Spotted Owl Habitat (FEIS, 154)</p>	<p>The availability, quality, and arrangement of suitable spotted owl habitat (nesting, roosting, foraging, and dispersal) has changed as a result of the Holiday Farm Fire, which burned a significant portion of the McKenzie River Watershed. The environmental baseline and effects analysis should be supplemented in light of the change in vegetation from the Fire.</p>
<p>Alternative 2 will affect 16 percent of spotted owl suitable habitat in the Flat Country project area by removing 2,556 acres of suitable habitat and downgrading 487 acres of suitable habitat (Table 42)...After harvest, stands that were previously suitable habitat will develop into dispersal habitat in approximately 40 years. These regenerating stands will become suitable habitat and may achieve stand characteristics that fit the RA32 description in 80 to 140 years after harvest, due to the retention of legacy trees. (FEIS, 154)</p>	<p>The availability, quality, and arrangement of suitable spotted owl habitat (nesting, roosting, foraging, and dispersal) has changed as a result of the Holiday Farm Fire, which burned a significant portion of the McKenzie River Watershed. The environmental baseline and effects analysis should be supplemented in light of the change in vegetation from the Fire.</p>
<p>Based on the distribution of suitable habitat and dispersal habitat, the proposed treatments will decrease landscape connectivity for spotted owls in the short-term, but the landscape connectivity will still remain functional based on the amount of suitable and dispersal habitat that will remain on the landscape as shown by the number of owl sites that meet suitable habitat thresholds (Table 43 and Table 44). (FEIS, 157)</p>	<p>The availability, quality, and arrangement of suitable spotted owl habitat (nesting, roosting, foraging, and dispersal) has changed as a result of the Holiday Farm Fire, which burned a significant portion of the McKenzie River Watershed. The Fire likely compromised connectivity and reduced suitable and dispersal habitat available on the landscape. The environmental baseline and effects analysis should be supplemented in light of the change in vegetation from the Fire.</p>
<p>Alternative 2 will downgrade or remove a total of 925 acres of suitable habitat across nine known sites within Critical Habitat. Downgrade of suitable habitat tends to fragment larger blocks of “continuous blocks of late-successional forest” (USFWS 2012). Three of these owl sites will have suitable habitat removed and/or downgraded within their core areas, and eight of these owl sites will have suitable habitat removed and/or downgraded within their home ranges (Table 43 and 44). All of these owl sites have suitable habitat within their home ranges that</p>	<p>The availability, quality, and arrangement of suitable spotted owl habitat (nesting, roosting, foraging, and dispersal) has changed as a result of the Holiday Farm Fire, which burned a significant portion of the McKenzie River Watershed. The Fire likely fragmented existing blocks of late-successional forest, altering the amount and arrangement of available suitable habitat. These owl sites may no longer have suitable habitat within their home and core ranges, both inside and outside of critical habitat. The environmental baseline and effects analysis should be supplemented</p>

<p>extends outside Critical Habitat. (FEIS, 157-58)</p>	<p>in light of the change in vegetation from the Fire.</p>
<p>The 74,063-acre Flat Country project area spatially overlaps with one past EIS (Robinson Scott), five past timber CEs for stands under 80 years old (Dulce, Norse, Pass, Muskee, and Ollie), one ongoing EA (South Fork), and no additional foreseeable projects. The Robinson Scott EIS, completed in the early 2000s, downgraded 2,358 acres of foraging habitat to dispersal habitat and maintained 80 acres of dispersal habitat (thinning leaving over 40 percent canopy cover). The Ollie CE maintained dispersal habitat and the other four CEs removed a total of 232 acres of dispersal habitat. The ongoing South Fork EA will harvest 51 acres of spotted owl foraging habitat. The Flat Country Project will downgrade 2,640 acres, which is 3.6 percent of the project area. (FEIS, 171)</p>	<p>The Holiday Farm Fire and federal and nonfederal salvage logging operations are other events and activities that degraded suitable northern spotted owl habitat and may have direct, indirect, and cumulative effects on spotted owls.</p>
<p>Weather parameters used for modeling were hot, dry conditions similar to those during the fire season with temperature of 80°F, 10 mph 20 ft. wind and 1, 10, 100-hour fuels at 4, 6, 8 percent fuel moisture, respectively.</p> <p>In the event of a wildfire, fire behavior will be minimized with harvest (reducing canopy continuity) and fuel treatments (reducing fuel bed) by keeping fire on the ground and reducing the likelihood of fire entering the canopy. A more open canopy can allow the sun to quickly heat the vegetation and fuels on the ground, and with fewer trees the potential for wind within the stand can increase. Even though these modifications could result in faster rates of spread during a wildfire they will be lower intensity (heat), duration and lower flame lengths compared to harvested stands with no fuel treatments. The harvest and fuel treatments also reduce ladder fuels (vertical and horizontal fuels), reduce the potential for tree torching or crown fire (Safford 2009; Lindh 2003; Agee 2002) and</p>	<p>The fire weather conditions for the Holiday Farm Fire and other Labor Day 2020 wildfires far exceeded these modelled parameters. The best available science indicates that extreme weather conditions are becoming more common. The effects analysis should be supplemented in light of the Holiday Farm Fire and contemporary Anthropogenic fire weather conditions.</p>

<p>reduce the potential for fire spotting. (FEIS, 218)</p>	
<p>In addition, estimates of forested area on the Willamette National Forest have remained stable, or increased since the late 1990's. (FEIS, 224)</p>	<p>The Holiday Farm Fire dramatically changed forest vegetative cover on the Willamette National Forest. The effects analysis should be supplemented in light of the Holiday Farm Fire.</p>
<p>Fire has been a dominant disturbance in the project area. Records indicate 194 fires occurred in the Flat Country project area from 1970-2018. However, due to fire suppression, most fires were suppressed at less than five acres within a few days of ignition. Timber harvest, including thinning, partial cut, and regeneration harvest, has been the dominant disturbance in the project area over the last 100 years. (ROD, 1)</p>	<p>The Holiday Farm Fire resisted suppression and burned approximately 231,000 acres or 27% of the McKenzie River Watershed, reducing the acreage available for timber harvest and rendering remaining suitable wildlife habitat even more important to conserve. The decision should be supplemented in light of the Holiday Farm Fire.</p>
<p>Several laws direct and allow the Forest Service to provide the sustainable harvest of trees from the Nation's forests including Multiple-Use Sustained-Yield Act of 1960 and the National Forest Management Act of 1976. (ROD, 3)</p>	<p>Several new federal laws and policies direct the Forest Service to conserve mature and old forests, conserve 30% of the nation's lands and waters by 2030, and use the best available science to make evidence-based land management decisions. The decision should be supplemented in light of these new laws and policies.</p>
<p>Existing Condition: The current PSQ annual target for the Willamette National Forest is 111 million board feet (MMBF) as amended by the Approval of PSQ Estimates for Northwest Forest Plan Forests (1998). A lack of younger stands within the planning area is reducing the likelihood of acres for thinning into the future, and thus jeopardizing the predictable, long-term contribution of the planning area towards a sustainable supply of timber.</p> <p>Desired Condition: Through implementation of the proposed actions, the McKenzie River Ranger District would contribute approximately 102 MMBF to the Willamette National Forest PSQ target over about a five year period (approximately 25-30 MMBF/year). In addition, an increase in the acres of younger cohorts to generate a more balanced age distribution of stands in the</p>	<p>The Holiday Farm Fire created extensive complex early-seral habitat, indicating that there may be no need to create this habitat type through timber harvest. The Forest Service has reduced the PSQ for the Willamette National Forest, and extensive federal and nonfederal post-fire salvage logging in the wake of the Holiday Farm Fire have resulted in local wood processing infrastructure operating beyond capacity. There is no "need" to provide additional timber volume through the Flat Country Project. The decision should be supplemented in light of the decreased PSQ on the Willamette and the lack of wood processing capacity.</p>

<p>planning area, which would provide for a predictable, long-term, sustainable supply of timber. (ROD, 3)</p>	
<p>Diversity at the landscape level is currently decreasing as a result of past timber harvest practices and the exclusion of fire. The natural mosaic pattern created on a landscape when fire is allowed to function naturally is being lost. (ROD, 4)</p>	<p>The Holiday Farm Fire increased landscape diversity and heterogeneity. There may no longer be a need to create additional heterogeneity on the landscape through the proposed timber harvest.</p>
<p>Notable conclusions are that Alternative 2 would achieve the following:</p> <ul style="list-style-type: none"> • ...contribute the largest supply of reliable timber products (about 102 MMBF), and in doing so, better contribute to the stability of local, regional and national economies; • treat the most acres when compared with Alternative 3, thereby improving stand conditions, diversity, density, and structure over a larger area; • create the most acreage of early-seral habitat, increasing the current amount from approximately 0.1 percent to 7 percent in the project area....(ROD, 12) 	<p>The Forest Service has reduced the PSQ for the Willamette National Forest, and extensive federal and nonfederal post-fire salvage logging in the wake of the Holiday Farm Fire have resulted in local wood processing infrastructure operating beyond capacity. There is no “need” to provide additional timber volume through the Flat Country Project. The Holiday Farm Fire increased landscape diversity and heterogeneity and created complex early-seral habitat. There may no longer be a need to create additional heterogeneity on the landscape or early seral habitat through the proposed timber harvest.</p>
<p>The current PSQ annual target for the Willamette National Forest is 111 million board feet (MMBF) as amended by the Approval of PSQ Estimates for Northwest Forest Plan Forests (1998). Through implementation of Alternative 2, the McKenzie River Ranger District would contribute approximately 102 MMBF to the Willamette National Forest PSQ target over a four year period (approximately 25 MMBF/year). (ROD, 12)</p>	<p>The Forest Service has reduced the PSQ for the Willamette National Forest, and extensive federal and nonfederal post-fire salvage logging in the wake of the Holiday Farm Fire have resulted in local wood processing infrastructure operating beyond capacity. There is no “need” to provide additional timber volume through the Flat Country Project. The decision should be supplemented in light of the decreased PSQ on the Willamette and the lack of wood processing capacity.</p>
<p>Although not exactly mimicking naturally occurring disturbance events, this harvest would create a small-scale disturbance in the analysis area somewhat similar to what may have occurred naturally while providing forest products. The objective would be to leave approximately 25 trees per acre following harvest to help establish a future stand by providing a beneficial microclimate and</p>	<p>The Holiday Farm Fire was a natural, large-scale disturbance event that altered the aquatic and terrestrial environmental baseline of the McKenzie River Watershed. The decision should be supplemented in light of this large-scale disturbance event, and in conjunction with the other adjacent and proximate Labor Day Fires.</p>

contribute towards creating snags and down wood. (ROD, 16)	
Findings Required by Other Laws and Regulation (ROD, 19-24)	Several new federal laws and policies direct the Forest Service to conserve mature and old forests, conserve 30% of the nation's lands and waters by 2030, and use the best available science to make evidence-based land management decisions. The decision should be supplemented in light of these new laws and policies.