From:	m1allen@blm.gov on behalf of RMPs_WesternOregon, BLM_OR
To:	RMP-Comments@heg-inc.com
Subject:	Fwd: FW: Draft Resource Management Plans for Western Oregon
Date:	Tuesday, July 21, 2015 10:38:05 AM
Attachments:	BLM O&C Draft Resource Management Plans.pdf

****

Resource Management Plans for Western Oregon
Bureau of Land Management
web: www.blm.gov/or/plans/rmpswesternoregon

FACEBOOK: www.facebook.com/blmoregon
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efore incl ding address, hone n mber, email address, or an other ersonal identif ing information in o r comments, be ad ised that o r entire comment, incl ding ersonal identif ing information, ma be made blicl a ailable at an time. f o ish s to ithhold o r ersonal information o m st state this rominentl at the beginning of o r comment. hile indi id als ma re est that the ithhold ersonal identif ing information from blic ie , the cannot g arantee it ill be able to do so.

o ha e recei ed this email beca se o ha e re io sl s bmitted a re est to be on the mailing list, sta eholder list, s bmitted a comment, feedbac or s r e res onse and or indicated interest in the R Ps for estern Oregon.

---------- Forwarded message ----------
From: **Sue Becraft** <sbecraft@co.tillamook.or.us>
Date: Wed, Jun 10, 2015 at 1:22 PM
Subject: FW: Draft Resource Management Plans for Western Oregon
To: "BLM_OR_RMPs_WesternOregon@blm.gov" <BLM_OR_RMPs_WesternOregon@blm.gov>, "Riley.Bushue@mail.house.gov" <Riley.Bushue@mail.house.gov>
Cc: Bill Baertlein <bbaertle@co.tillamook.or.us>, Mark Labhart <mlabhart@co.tillamook.or.us>, Tim Josi <tjosi@co.tillamook.or.us>, Paul Levesque <plevesqu@co.tillamook.or.us>, "'Nick Smith' (nick@healthyforests.org)" <nick@healthyforests.org>

Please find a letter attached that the Tillamook County Commissioners signed at their regular board meeting this morning expressing their concern about the Bureau of Land Management's draft Resource Management Plans for Western Oregon.

Sue Becraft

Board Assistant

Tillamook County Commissioners

Phone: 503-842-3403

Tillamook County

Board of Commissioners
Tim Josi. Mark Labhart. Bill Baertlein
201 Laurel Avenue
Tillamook, Oregon 97141
Phone 503-842-3403
Fax 503-842-1384
TTY Oregon Relay Service

Land of Cheese, Trees and Ocean Breeze

June 10, 2015

RMPs for Western Oregon
Bureau of Land Management
PO Box 2965
Portland OR 97208

RE: Draft Resource Management Plans for Western Oregon

Bureau of Land Management
Senator Ron Wyden
Senator Jeff Merkley
Representative Kurt Schrader
Representative Suzanne Bonamici
Representative Earl Blumenauer
Representative Peter DeFazio
Representative Greg Walden

This letter is to express our concern about the Bureau of Land Management's draft Resource Management Plans for Western Oregon. As Commissioners who support the many benefits timber management provides our communities and forests, we believe the draft plans all take our "O&C" lands in the wrong direction.

In order for us to respond appropriately to the draft Resource Management Plans for Western Oregon, we will need additional time. We are requesting an extension of time in the BLM's planning process for the O&C lands. The BLM issued a 1500+ page draft environmental impact statement/resource management plan, and allowed 90 days for public comment. We are asking for an additional 120 days, until November 20.

Western Oregon's O&C forests were established with a clear legal mandate. By law, these forests are intended to be managed under sustained-yield harvest practices for the benefit of our counties and communities. Though these forests are growing the equivalent of 1.2 billion board feet per year, yet the alternatives offered by the BLM largely maintain the anemic harvest levels of the past two decades. In fact, the BLM's Bureau of Land Management preferred plan would actually reduce allowable harvest levels and more than double the land in late-successional reserves. This is not balanced.

We have seen the impacts of the current approach to O&C forest management. Environmental lawsuits and federal bureaucracy have tied the hands of BLM staff on the ground. As a result, our forests have become more vulnerable to wildfire, insects and disease. The steep decline in timber harvests has contributed to business closures and high unemployment. The draft Resource Management Plans do nothing to solve these problems.

For these reasons, we do not support the BLM's draft Resource Management Plans and need more time to detail our reasons. It's time for congressional action on a solution that honors the O&C Act, improves forest health and puts rural Oregon back to work.

Sincerely,

BOARD OF COMMISSIONERS FOR
TILLAMOOK COUNTY, OREGON

Tim Josi, Chair

Mark Labhart, Vice-Chair

Bill Baertlein, Commissioner

cc: O&C Counties – Rocky McVay

G: /LETTERS\BLM Draft Resource Management Plans for Western Oregon .doc

From:	m1allen@blm.gov on behalf of RMPs_WesternOregon, BLM_OR
To:	RMP-Comments@heg-inc.com
Subject:	Fwd: Letter of Comment from Jackson County, Oregon, Board of Commissioners
Date:	Tuesday, July 21, 2015 1:12:45 PM
Attachments:	image002.png 2015_07_15_RMP_EIS_signed.pdf

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Resource Management Plans for Western Oregon
Bureau of Land Management
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efore incl ding address, hone n mber, email address, or an other ersonal identif ing information in o r comments, be ad ised that o r entire comment, incl ding ersonal identif ing information, ma be made blicl a ailable at an time. f o ish s to ithhold o r ersonal information o m st state this rominentl at the beginning of o r comment. hile indi id als ma re est that the ithhold ersonal identif ing information from blic ie , the cannot g arantee it ill be able to do so.

o ha e recei ed this email beca se o ha e re io sl s bmitted a re est to be on the mailing list, sta eholder list, s bmitted a comment, feedbac or s r e res onse and or indicated interest in the R Ps for estern Oregon.

---------- Forwarded message ----------
From: **BOC-CAO_ADMIN** <BoC-CAO_Admin@jacksoncounty.org>
Date: Wed, Jul 15, 2015 at 2:21 PM
Subject: Letter of Comment from Jackson County, Oregon, Board of Commissioners
To: "BLM_OR_RMPs_WesternOregon@blm.gov"
<BLM_OR_RMPs_WesternOregon@blm.gov>

Attached please find a letter from the Jackson County, Oregon Board of Commissioners.

This letter has also been sent via Certified Mail.

Sincerely,

Loris Fenner

Executive Secretary

Board of Commissioners

10 S. Oakdale, Room 214

Medford, OR 97501

541-774-6004

FennerLM@jacksoncounty.org

JACKSON COUNTY
Oregon

Board of Commissioners

Rick Dyer (541) 774-6118
Doug Breidenthal (541) 774-6119
Colleen Roberts (541) 774-6117
Fax: (541) 774-6705

10 South Oakdale, Room 214
Medford, Oregon 97501

July 15, 2015

VIA CERTIFIED MAIL AND EMAIL

RMPs for Western Oregon
Bureau of Land Management
Mr. Jerome Perez, State Director
P.O. Box 2965
Portland, Oregon 97208
BLM_OR_RMPs_WesternOregon@blm.gov

Dear Mr. Perez:

Please accept this letter as Jackson County's comments on the Bureau of Land Management's ("BLM") Draft Western Oregon Resource Management Plan ("RMP")/Environmental Impact Statement ("EIS"). Unfortunately, as the County was not permitted to participate in the creation of the Draft RMP/EIS as a cooperating agency under the National Environmental Protection Act ("NEPA"), this is the County's first opportunity to provide comment on the RMP/EIS. Additionally, the initially announced public comment period of only 90 days is an extremely short period of time for any entity to digest and comment upon a document as lengthy, wide ranging, and consequential as the Draft RMP/EIS. This short period of time for review is particularly difficult for the County, as the County was also excluded from the coordination process under the Federal Land Policy and Management Act ("FLPMA"). Given the RMP's potential impacts to the County, its plans and policies, its citizens, its economy, and its environment, the mere 90 days initially authorized to review the draft RMP/EIS was insufficient. The brief extension of the public comment period to August 21, 2015 still does not provide sufficient opportunity for Jackson County to thoroughly review and comment on the extensive impacts to the County that the adoption of this draft as the final RMP would impose. By excluding Jackson County from the coordination and cooperating agency process and by declining to consider the County's plans and policies, BLM failed to adequately consider and address those impacts in the Draft RMP/EIS and failed to comply with FLPMA and NEPA.

FLPMA requires BLM to coordinate with local governments, to keep apprised of local government plans and policies, provide for meaningful involvement of local officials, and to attempt to reconcile any inconsistencies between BLM's proposed action, and the local government's plans. Under FLPMA, BLM:

> shall . . . coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of . . . local governments within which the lands are located . . . by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant

> impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

43 U.S.C. § 1712(c)(9). There is no evidence in the Draft RMP/EIS whatsoever that BLM attempted to coordinate with the County, provide for meaningful input from Jackson County's officials, kept apprised of Jackson County's local plans or policies during the creation of the Draft RMP/EIS, or attempted to reconcile inconsistencies between the proposed action and the County's plans and policies.

Further, FLMPA's implementing regulations contain additional and more specific provisions for input from and consideration of a local government's plans, policies, and laws. These regulations are designed to ensure that the BLM coordinates with local governments and accounts for local plans and policies with an aim to harmonize federal plans with those of affected local entities. For instance, 43 C.F.R. § 1610.3-1 provides, among other things, that BLM keep apprised of non-BLM plans, assure that BLM consider germane local plans, assist in resolving inconsistencies between federal and local plans, provide for meaningful involvement from local government officials, collaborate and cooperate with local governments, and provide affected local governments with the opportunity to review, prepare, and respond to BLM plans beyond what is available to members of the public. See also, 43 C.F.R. § 1601.0-2 (ensuring the participation in planning by local governments); 43 C.F.R. § 1610.3-2 (providing for consistency, where practicable, between RMPs and local government plans and policies and requiring BLM to keep apprised of such plans and policies); 43 C.F.R. § 1610.4-1 (providing for participation from local governments "at the outset of the planning process"); 43 C.F.R. § 1610.4-2 (providing for coordination with local governments); 43 C.F.R. § 1610.4-4 (providing for consistency with the policies, plans, and programs of local governments); 43 C.F.R. § 1610.4-7 (providing for enhanced participation from local governments).

Thus, BLM was required to not only coordinate with the County as an affected local government, but was also required to take into account the County's plans, programs, and policies. Importantly, FLMPA's requirements to coordinate with local governments are independent from its mandate to account for local government plans and policies. Here, BLM failed on both counts. The County was excluded from coordination and in-so-far as there is not a single reference to any Jackson County plan, policy, or program in the Draft RMP/EIS, it does not appear that BLM kept apprised of, much less attempted to resolve any inconsistencies with Jackson County's plans and policies. Included amongst the plans and policies BLM should have accounted for are Jackson County's Federal Coordination Policy, the County's Natural Hazard Mitigation Plan, the Jackson County Integrated Fire Plan (this plan constitutes the County's Community Wildfire Protection Plan), the County's Emergency Operations Plan, and the County's Comprehensive Plan.

NEPA also contains provisions for cooperation with and consideration of input from local governments as well as consideration of a local government's plans, policies, programs, and laws. NEPA's stated purpose is for:

> the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

42 U.S.C. § 4331(a). NEPA's implementing regulations contain specific provisions to ensure that federal agencies participate with local governments to meet the Act's goals. For instance, 40 C.F.R § 1506.2, provides that federal agencies "shall cooperate with . . . local agencies to the fullest extent possible." That cooperation should include joint planning, joint research and studies, joining public hearings, joining environmental assessments, consideration of local plans, policies, laws and efforts to resolve inconsistencies between local plans and the BLM's proposed actions. Id.; see also, 40 C.F.R § 1501.6 (providing for cooperating agencies).

As with FLMPA, BLM failed to comply with NEPA's provisions with regard to Jackson County in the preparation of the Draft RMP/EIS. BLM did not cooperate with the County to "the fullest extent possible" but instead excluded the County from the process. Importantly, BLM also failed to consider, much less attempt to resolve inconsistencies with the County's plans and policies. Included amongst those plans and policies are Jackson County's Federal Coordination Policy, the County's Natural Hazard Mitigation Plan, The Jackson County Integrated Fire Plan (this plan constitutes the County's Community Wildfire Protection Plan), The County Emergency Operations Plan, and the County's Comprehensive Plan.

Thank you for the opportunity to comment on the Draft RMP/EIS. However, in our view, the BLM has failed to coordinate or cooperate with the County outside of this public comment period and has failed to account for the RMP's impacts on the County, its plans and policies, its citizens, its economy, and its environment. In our view, BLM should restart its analysis of the RMP, should coordinate with the County, should include the County as a cooperating agency, and should consider, incorporate, and resolve inconsistencies with affected County plans and policies before making any final decisions.

Sincerely,

Doug Breidenthal, Chair
Board of Commissioners

cc: Rick Dyer, Commissioner
Colleen Roberts, Commissioner
County Administrator
County Counsel
Senator Jeffery A. Merkley
Senator Ron Wyden
Representative Earl Blumenauer
Representative Suzanne Bonamici
Representative Peter A. DeFazio
Representative Kurt Schrader
Representative Greg P. Walden

Jasmine Benjamin

From: m1allen@blm.gov on behalf of RMPWO_Comments, BLM_OR <blm_or_rmpwo_comments@blm.gov>
Sent: Friday, August 21, 2015 1:09 PM
To: RMP-Comments@heg-inc.com
Subject: Fwd: EPA Comments on the BLM DEIS Resource Management Plan For Western OR
Attachments: R10ETPASCF601007292015142127.pdf

---------- Forwarded message ----------
From: **RMPs_WesternOregon, BLM_OR** <blm_or_rmps_westernoregon@blm.gov>
Date: Fri, Aug 21, 2015 at 8:29 AM
Subject: Fwd: EPA Comments on the BLM DEIS Resource Management Plan For Western OR
To: BLM_OR RMPWO_Comments <blm_or_rmpwo_comments@blm.gov>

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Resource Management Plans for Western Oregon
Bureau of Land Management
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Before including address, phone number, email-address, or any other personal identifying information in your comments, be advised that your entire comment, including personal identifying information, may be made publicly available at any time. If you wish us to withhold your personal information you must state this prominently at the beginning of your comment. While individuals may request that the BLM withhold personal identifying information from public view, the BLM cannot guarantee it will be able to do so.

You have received this email because you have previously submitted a request to be on the mailing list, stakeholder list, submitted a comment, feedback or survey response and/or indicated interest in the RMPs for Western Oregon.

---------- Forwarded message ----------
From: **Kubo, Teresa** <Kubo.Teresa@epa.gov>
Date: Wed, Jul 29, 2015 at 2:42 PM
Subject: EPA Comments on the BLM DEIS Resource Management Plan For Western OR
To: "BLM_OR_RMPs_WesternOregon@blm.gov" <BLM_OR_RMPs_WesternOregon@blm.gov>

Hello BLM RMP Team,

Attached you will find EPA Region 10 comments on the Draft EIS/RMP for Western Oregon. Thank you for the opportunity to provide comments. We value the opportunity to work with you.

Regards,

Teresa

Teresa Kubo

Environmental Review and Sediment Management

US EPA Oregon Operations

805 SW Broadway, Ste 500

Portland, Oregon 97205

Tel. 503-326-2859

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue, Suite 900
Seattle, WA 98101-3140

OFFICE OF
ECOSYSTEMS,
TRIBAL AND PUBLIC
AFFAIRS

July 29, 2015

Mark Brown, Project Manager
RMPs for Western Oregon
Bureau of Land Management
P.O. Box 2965
Portland, Oregon 97208

Dear Mr. Brown:

The U.S. Environmental Protection Agency has reviewed the Bureau of Land Management's Draft Resource Management Plan/Environmental Impact Statement (Draft RMP/EIS) for western Oregon (EPA Project Number: 12-0020-BLM). The plan will apply to forest lands in the Coos Bay, Eugene, Medford, Roseburg, and Salem Districts and the Klamath Falls Field Office in the Lakeview District. Our review was conducted in accordance with EPA responsibilities under the National Environmental Policy Act and Section 309 of the Clean Air Act.

The Draft RMP/EIS proposes to revise the 1995 RMPs for the six Districts listed above. The purpose of this RMP revision is to provide a sustained yield of timber, contribute to the conservation and recovery of threatened and endangered species, provide clean water in watersheds, restore fire-adapted ecosystems, provide recreation opportunities, and coordinate management of lands surrounding the Coquille Forest with the Coquille Tribe. The DEIS analyzes a No Action alternative of continued implementation of the 1995 RMPs, four action alternatives (A, B, C, and D), and two sub-alternatives (sub-B and sub-C). The DEIS identifies Alternative B as the preferred alternative.

The EPA has appreciated the opportunity to participate in the development of the Draft RMP/EIS as a cooperating agency. The BLM has made a concerted effort to engage all of the cooperating agencies in a meaningful and robust process. We also appreciate the way in which the planning team engaged with the cooperating agencies to structure the alternatives within the DEIS. As noted on page xxiii of the DEIS, the alternatives were developed to represent a range of overall management approaches, rather than exemplify gradations in design features. In doing so, we find the DEIS succeeds in exploring the full spectrum of alternatives, which would respond to the stated purpose and need and maximizes the potential decision space for the deciding official.

As a result of our review, we believe that it will be necessary to pull elements from many of the alternatives, including the No Action alternative, to arrive at a final RMP that will best meet the established purpose and need for action. Specifically, we find that the riparian strategy under Alternative B presents potential risks to aquatic resources that are incongruent with the BLM's purpose and need. In order to establish a robust aquatic strategy that will consistently deliver predictable social and environmental outcomes, we recommend that the Final RMP/EIS include a riparian strategy based on the management concepts within Alternatives A or D. We also recommend that the overarching aquatic

strategy be expanded to capture key concepts from the No Action Alternative, including Key Watersheds and Watershed Analysis.

We would recommend retaining the Harvest Land Base strategy under Alternative B. We find that the Alternative B harvest strategy in concert with a robust aquatic strategy would allow for continuity of key landscape functions, including harvest, while providing clean water and contributing to the conservation and recovery of threatened and endangered species. However, because this approach represents a departure from current management, our review also highlights the need for a robust monitoring program capable of assessing project implementation and effectiveness. We recommend that the details of a monitoring program be directly addressed and incorporated into the final RMP/EIS.

Finally, we commend BLM for a robust analysis of the potential impacts of climate change under the analyzed alternatives. Again, we find that the Alternative B harvest strategy performs well relative to the other analyzed alternatives in terms of providing the latitude needed to increase landscape resiliency to the effects of climate change.

Our attached comments provide additional detail about our concerns and recommendations. In light of our concerns over the aquatic strategy under Alternative B, and the lack of detail in the Draft RMP/EIS with regard to Key Watersheds, Watershed Analysis, and Monitoring, we are rating the Draft RMP/EIS as EC-2 (Environmental Concerns – Insufficient Information). We sincerely appreciate the opportunity to provide comments and we welcome the opportunity to continue to engage with the BLM as you move forward. If you have any questions about our review, please contact me at (206) 553-1601, or by electronic mail at reichgott.christine@epa.gov, or you may contact Teresa Kubo of my staff at 503-326-2859 or by electronic mail at kubo.teresa@epa.gov.

Sincerely,

Christine B. Reichgott

Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit

Enclosure:

1. EPA Region 10 Comments on the Western Oregon Draft Resource Management Plan/ Environmental Impact Statement

EPA Region 10 Comments on the Western Oregon
Draft Resource Management Plan/Environmental Impact Statement

Aquatic Strategy

A robust aquatic strategy is critical to protecting, maintaining, and/or restoring water quality and the ecological health of watersheds and aquatic systems within the BLM planning area. We believe the DEIS as written contains the elements that should be included in an aquatic strategy. However, these elements are not all represented within the draft preferred Alternative B. The comments that follow identify those components that EPA believes are necessary to include in an aquatic strategy in order to fully satisfy BLM's purpose and need related to clean water and the conservation and recovery of listed fish. For communication purposes, we frame these comments using the structure of the Northwest Forest Plan (NWFP) Aquatic Conservation Strategy (Riparian Reserves; Key Watersheds; Watershed Analysis; Watershed Restoration). We are not, however, advocating for a wholesale continuation of the NWFP Aquatic Conservation Strategy or the associated terminology.

Riparian Reserves

The DEIS identifies Alternative B as the preferred Alternative. The riparian strategy associated with Alternative B calls for riparian reserves of one site potential tree height on fish bearing streams; 100 foot reserves on debris-flow prone, non-fish-bearing intermittent streams; and 50-foot reserves on other non-fish-bearing intermittent streams. Within those allocations, Alternative B would require 60-foot no-thin buffers on fish-bearing and perennial streams; and 50-foot no-thin buffers on non-fish-bearing intermittent streams. Our review of the DEIS finds that the riparian strategies under Alternative B (and Alternative C which employs the most management intensive approach of all the alternatives) would result in risks to aquatic resources that would be avoided under the riparian strategies included in Alternatives A and D.

In 2013, the Science Review Team (SRT), under the direction of the Interagency Coordinating Subgroup (ICS), reviewed available literature related to the use of no-cut buffers adjacent to thinning harvests such as those proposed under Alternatives B and C. This team found that this kind of a management approach has received relatively little treatment in literature.[1] Due in part to the uncertainty around effects associated with riparian thinning, the EPA sought to include an analytical methodology in the DEIS that would be capable of considering potential shade loss associated with different riparian thinning intensities, buffer widths, aspects, and initial canopy cover. To that end, EPA proposed a mechanistic modeling approach to BLM during the development of the Planning Criteria.[2] The BLM accepted the methodology, and we gratefully acknowledge the inclusion of both the method and the results in the DEIS.

As noted in the DEIS (page 295), the EPA methodology found potential shade loss under each of the alternatives analyzed, though more under Alternatives B and C than under Alternatives A, D and the No Action Alternative. Under Alternatives B and C, the EPA methodology found there would be up to 372 miles of fish-bearing and perennial streams that would be susceptible to shade reductions that could affect stream temperatures. This would represent approximately 5% of the total fish-bearing and perennial stream miles within the planning area. We appreciate most of the stream miles that would be

[1] Leinenbach, P., McFadden, G. and C. Torgersen. 2013. Effects of Riparian Management Strategies on Stream Temperature. Prepared for the Interagency Coordinating Subgroup. 22 pages.

[2] http://www.blm.gov/or/plans/rmpswesternoregon/files/rmp-criteria.pdf

susceptible to shade loss are within areas that currently have lower canopy cover, making them unlikely to be selected for management. This said, management that would impact shading resources could be pursued under Alternatives B and C. This fact introduces an element of risk to clean water and listed fish that we believe the BLM is striving to avoid in order to provide predictable outcomes. Under Alternatives A and D, there would be up to 33 miles (out of 6,970 miles) of fish-bearing and perennial streams that would be susceptible to shade loss. This represents less than 0.5% of the total fish-bearing and perennial streams in the planning area. As with Alternatives B and C, the streams, which would be susceptible to shade loss are those that currently have low canopy cover in the inner zone. Under the management direction for Alternatives A and D, it is very unlikely that the BLM would manage within the outer zones along those streams. Given the limited number of stream miles and the proposed management direction, we find Alternatives A and D to provide the greatest level of certainty (among all of the alternatives) with regard to stream shade outcomes.

Alternatives A and D also perform better over time with regard to the provision of woody debris in streams. As noted on page 225 of the DEIS, Alternatives A and D would result in a larger increase in the number of large trees near streams than Alternatives B and C. Similarly, as noted on page 227 of the DEIS, Alternatives B and C would result in a smaller increase in the average diameter of trees in stands within one site-potential tree height of streams when compared to Alternatives A and D. Finally, as noted on page 228 of the DEIS, Alternatives A and D would include within the Riparian Reserve the largest proportion of the landscape capable of delivering wood to the stream. Based on these factors, we believe Alternatives A and D provide a higher level of certainty with regard to wood delivery outcomes than do Alternatives B and C.

Recommendation:
We recommend that BLM utilize the riparian management strategy from Alternative A or D as the basis for the final riparian strategy in the FEIS/proposed RMP. These strategies would provide consistent, predictable outcomes related to temperature, large wood, and sediment and best meet the BLM's purpose and need related to the provision of clean water in watersheds and the conservation and recovery of fish listed as threatened or endangered under the ESA.

Key Watersheds
Key Watersheds are a primary component of the Aquatic Conservation Strategy under the No Action Alternative (the Northwest Forest Plan). By designating Key Watersheds, the NWFP intended to identify and prioritize the management of areas of refugia that are crucial to at-risk fish species and the provision of high quality water. The EPA strongly endorses the identification of Key Watersheds. Maintaining refugia is critical to maintaining and recovering habitat for listed fish, and the provision of clean water is essential not only for the conservation and recovery of fish, but to the health of over 1.8 million Oregonians who rely on BLM land for their drinking water.

While we support the Key Watershed concept, and recommend that it be carried forward in the proposed RMP, we also believe that the process for identifying and managing Key Watersheds can be refined and improved. Our analysis finds that the existing network of Key Watersheds on BLM land does not align well with those areas, which we now understand to be the most important for listed fish. Further, the existing network of Key Watersheds on BLM land does not align well with source water watersheds (those watersheds that provide drinking water). We also note that the management direction for Key Watersheds under the NWFP is effectively limited to prioritizing those areas for restoration and road decommissioning. While we support restoration and road decommissioning within Key Watersheds, we

do not find that this direction offers a high degree of certainty with regard to environmental outcomes, particularly given that restoration and road decommissioning are largely dependent upon the availability of funding and potentially complicated by factors related to right-of-way agreements with private landowners.

Recommendations:
We recommend that the BLM seek to better align Key Watersheds with those areas critical for the conservation and recovery of listed fish and high quality drinking water. We also recommend that the BLM provide specific, rather than aspirational management direction for those areas. To that end, we recommend that the BLM consider an approach based on the following overarching criteria:

High Intrinsic Potential Streams: Fish biologists and recovery planners have long recognized the importance of reach-scale stream attributes (channel gradient, stream discharge, and valley constraint). These attributes (which together represent the intrinsic potential of a stream) influence the availability of fine-scale habitat features (e.g., pools, spawning gravel, and large wood) needed by salmonids. At the time the NWFP was under development, we did not have the analytical capability to map intrinsic potential over large areas. Today, we have this capability thanks to the availability of high quality digital elevation and climate data. The resulting high-resolution maps of stream networks and reach-scale stream attributes allow us to identify and prioritize the protection and restoration of those areas that do, or have the potential to, contribute disproportionately to the conservation and recovery of listed fish.

We recommend that the FEIS identify those 6th field watersheds within the planning area that key out as containing high intrinsic potential (HIP) habitat for coho salmon or steelhead. We recommend that the FEIS identify HIP watersheds for both of these species because coho tend to prefer lower gradient, less confined streams, whereas steelhead tend to prefer higher gradient, more confined streams. As such, stream reaches with high intrinsic potential generally do not overlap for coho and steelhead. Intrinsic Potential (IP) should be calculated as $IP = (MD * CG * VC)^{1/3}$ where MD = Mean Annual Discharge; CG = Channel Gradient; and VC = Valley Constraint. Based on existing work with IP modeling, we recommend that High Intrinsic Potential (HIP) be defined as those streams with an IP of .75 or greater.[3]

Critical Habitat: As noted on page 217 of the DEIS, the National Marine Fisheries Service (NMFS) has designated critical habitat for eight anadromous salmonid species within the planning area. These are specific geographic areas that NMFS has identified pursuant to the Endangered Species Act (ESA) that contain features essential for the conservation of listed fish. Recognizing that there may be areas of critical habitat that are needed for population recovery, but which do not key out as HIP, we recommend that the FEIS also identify those 6th field watersheds that contain critical habitat.

Watersheds containing both HIP and Critical Habitat are of critical importance to fish recovery and have the underlying geomorphic structure to provide good habitat in the long term. We recommend that these watersheds receive specific management consideration as Key Watersheds (understanding that BLM may choose different nomenclature in order to differentiate these watersheds from Key Watersheds as designated under the NWFP). Specifically, we recommend that riparian areas within these watersheds be managed to minimize risk to shade, temperature and large wood inputs, and maximize certainty around

[3] Bidlack, A, Miewald, T., Benda, L., and G. H. Reeves. 2010. Preliminary Report on Intrinsic Potential Habitat Modeling for Chinook in the Klutina and Tonsina Watersheds, Alaska. 19 pages. Available at http://www.wildsalmoncenter.org/toolkit/pdfs/Copper%20River%20IP%20Paper%20042010.pdf

achievable outcomes. Based on our analysis, and the analysis in the DEIS, we find that this would best be accomplished by a strategy built around the concepts included in Alternatives A or D.

Watersheds containing *either* HIP streams *or* Critical Habitat should also receive specific management consideration. These have either been identified as critical to the conservation and recovery of listed fish, or they have the potential to contribute toward those goals. These watersheds should be designated as Tier II Key Watersheds (again, the naming convention is less important than the management direction associated with it). These areas should also be managed to minimize risk to shade, temperature and large wood inputs under a strategy built around Alternatives A or D. It may, however, be appropriate to consider some management in the outer zone (outside of 120 feet on perennial and fish-bearing streams or outside of 50 feet on intermittent non-fish-bearing streams) where stands lack diversity and structural complexity.

Drinking Water: Over 1.8 million Oregonians within the planning area get their drinking water from BLM lands. Under the approach outlined above, where watersheds containing HIP and critical habitat would be managed under an Alternative A or D-type approach, most of the watersheds providing source water would also receive a high level of protection. The alignment is not perfect, however. In those watersheds that contain *neither* HIP *nor* critical habitat, it is still critical that adequate protection be provided for source water. We recommend that any watersheds not designated as Tier I or Tier II key watersheds be managed to minimize risk to shade, sediment and large wood production on all perennial and fish-bearing intermittent streams (using an Alternative A or D approach similar to what would be pursued for Tier II key watersheds). Intermittent and non-fish bearing streams should be managed to ensure the protection and maintenance of water quality. Based on our review and the analysis within the DEIS, intermittent and non-fish bearing streams in "non-key" watersheds should at a minimum receive protection consistent with the riparian strategy presented in Alternative B.

Watershed Analysis

The EPA strongly endorses the use of watershed-scale information to establish the contextual basis for land use activities. Decision makers need watershed-scale information to be able to plan land use activities that are compatible with disturbance patterns; design roads that pose minimal risk; identify what and where restoration activities will be most effective; and establish specific parameters and activities that should be monitored.

As noted on page 23 of the DEIS, none of the action alternatives include the Northwest Forest Plan watershed analysis process. The DEIS goes on to note, however, that the BLM would generate the equivalent of watershed analysis under each of the action alternatives by "...providing watershed scale information, including identifying resource conditions, watershed processes, risks to resources, and restoration opportunities, as needed for NEPA analysis or ESA consultation for implementation actions taken in the future consistent with the plan."

The EPA appreciates the BLM's stated intention to conduct the equivalent of watershed analysis. Given the importance of this information to the overall implementation of the RMP, we recommend that the FEIS include additional detail about how watershed information will be utilized and incorporated in the implementation of the RMP.

Recommendations:
We recommend that the FEIS/Proposed RMP clarify how watershed analysis will be brought forward in RMP implementation. We note that the Record of Decision, for at least one recent RMP prepared by the BLM in Oregon, the West Eugene Wetlands RMP,[4] includes an appendix entitled "Guidance for Use of the Resource Management Plan." We believe such an appendix to the RMP for Western Oregon would be an appropriate place to provide detail about how watershed analysis will be incorporated in the implementation of the RMP. With regard to the direction to be included in that appendix, we recommend that the FEIS/RMP incorporate the following concepts:

- Watershed-scale information will be compiled with the purpose of developing and documenting a scientifically-based understanding of the ecological structures, functions, processes, and interactions occurring within a watershed.
- Watershed-scale information may include the identification of resource conditions; watershed processes; risks to resources; and restoration opportunities.
- Watershed-scale information will be relevant to analyzing the effects of implementation actions, determining monitoring and restoration needs for a watershed, and developing priorities for funding and implementing actions.
- BLM will use watershed-scale information, where appropriate, to facilitate NEPA and Endangered Species Act compliance for specific projects (e.g. biological assessments for consultation with the National Marine Fisheries Service and U.S. Fish and Wildlife Service under Section 7(a)(2) of the ESA), as well as the implementation of Total Maximum Daily Loads for those streams listed as water quality impaired under section 303(d) of the Clean Water Act.

Watershed Restoration
Watershed restoration is an integral part of any aquatic strategy aiming to recover fish habitat, and water quality. Page 23 of the DEIS states that "...all of the action alternatives include management direction for watershed restoration similar to the watershed restoration described in the Northwest Forest Plan and included in the No Action alternative."

EPA is very supportive of the direction related to watershed restoration in Appendix B (Management Objectives and Direction). In particular, we support the direction on page 907 (for all water features):

- Implement instream and riparian restoration activities, such as placement of boulders and large wood in streams, including tree lining from adjacent riparian areas for all streams. Place an emphasis on streams that have high intrinsic potential for fish, high priority fish populations (such as those defined in recovery plans), or high levels of chronic sediment inputs.
- Remove or modify constructed fish passage barriers to restore access to stream channels for all life stages of fish species.

We also appreciate the direction on pages 916 and 923 relative to roads. In general, we find the most important components of a watershed restoration program to be control and prevention of road-related runoff and sediment production, restoration of the condition of riparian vegetation, and restoration of in-stream habitat complexity.

[4] Eugene District BLM. 2015. Record of Decision and Resource Management Plan for the West Eugene Wetlands. Available at http://www.blm.gov/or/districts/eugene/plans/files/wew-rod.pdf

Recommendation
Given the importance of control and prevention of road-related runoff and sediment production, we recommend that best management practice "R 094" (in Appendix I) related to wet weather hauling be re-designated as management direction, and incorporated into Appendix B. It is EPA's position that limiting sediment production associated with hauling is an important component of a successful watershed restoration strategy. As such, it should carry the weight of management direction.

Harvest Land Base Strategy
Under the draft preferred Alternative B, the Harvest Land Base is comprised of an Uneven-Aged Timber Area (11% of the planning area), a Low Intensity Timber Area (3% of the planning area), and a Moderate Intensity Timber Area (8% of the planning area). The Uneven-Aged Timber Area in Alternative B is based on dry and very dry forest types identified by potential vegetation types. The portion of the Harvest Land Base outside of the Uneven-aged Timber Area is divided between the Low Intensity Timber Area in designated northern spotted owl critical habitat and the Moderate Intensity Timber Area outside of designated northern spotted owl critical habitat. Timber harvest in the Low Intensity Timber Area includes thinning and regeneration harvest with retention of 15 to 30 percent of the stand. In the Low Intensity Timber Area, the strategy would rely on natural tree regeneration after timber harvest. Timber harvest in the Moderate Intensity Timber Area includes thinning and regeneration harvest with retention of 5 to 15 percent of the stand. In the Moderate Intensity Timber Area, the BLM would use either natural tree regeneration or replanting after timber harvest, but would maintain early seral habitat conditions for several decades after harvest.

The EPA supports the Harvest Land Base Strategy under Alternative B. This strategy broadly aligns with what has come to be called "ecological forestry." EPA supports ecological forestry as it incorporates principles of natural forest development, including the role of natural disturbances, in the initiation, development, and maintenance of stands and landscape mosaics.[5,6,7] Ecological forestry concepts have also been endorsed by the U.S. Fish and Wildlife Service. The Revised Recovery Plan for the Northern Spotted Owl[8] and associated Critical Habitat Rule[9] employ the use of ecological forestry to achieve ecosystem goals within Critical Habitat.

Additionally, because Alternative B retains forest structure within each of the land use allocations in the harvest land base, we find the strategy complements the BLM's purpose and need related to clean water in watersheds. In a 2009 study in Western Washington, Pollock et al.[10] found a relatively strong relationship between maximum daily stream temperatures and the total amount of harvest in a basin. Their findings suggest that the impact of forest harvest activities on stream temperatures cannot be

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[5]Seymour, R. and M. Hunter. 1999. Principles of ecological forestry. P. 22-64 in *Managing biodiversity in forested ecosystems*. M. Hunter (ed.). Cambridge University Press, Cambridge, UK.

[6] Franklin, J.F., R.J. Mitchell, and B.J. Palik. 2007. *Natural disturbance and stand development principles for ecological forestry*. USDA For. Serv. Gen. Tech. Rep. NRS-19. 44p.

[7] Franklin, J. F. and K. N. Johnson. 2012. A Restoration framework for federal forests in the Pacific Northwest. *J. For.* 110(8): 429-439

[8] US Fish and Wildlife Service. 2011. *Revised recovery plan for the northern spotted owl (Strix occidentalis caurina)*. USDI Fish and Wildlife Service, Portland, OR. 258 p.

[9] US Fish and Wildlife Service. Dec. 4, 2012. Endangered and threatened wildlife and plants; revised critical habitat for the Northern Spotted Owl. Available online at https://www.federalregister.gov/articles/2012/12/04/2012-28714/endangered-andthreatened-wildlife-and-plants-designation-of-revised-critical-habitat-for-the-Northern-Spotted-Owl .

[10] Pollock, M., Beechie, T., Liermann, M. and R. Bigley. 2009. Stream Temperature Relationships to Forest Harvest in Western Washington. Journal of the American Water Resources Association. 45(1). 15 pp.

entirely mitigated through the use of riparian buffers. Given the intensive management that generally occurs on the intermingled private (checkerboard) lands, we support utilizing a management strategy on BLM land that provides for legacy structure and function post-harvest. By employing ecologically-based retention, Alternative B would help to ensure a continuation of broader landscape function, including the provision of clean water.

Finally, we recognize and appreciate the contention over the role of federal lands in providing for early seral habitat. It is firmly established in literature, however, that the early seral component is lacking on the landscape, and that this is to the detriment of biodiversity and overall ecosystem function.[11,12] Early successional or seral moist forest sites are highly diverse, trophic- and function-rich ecosystems that are utilized by a large number of species of conservation concern. Many of these species are either dependent on early seral habitat, use it for some aspect of their life history, or are able to utilize this habitat type opportunistically. Examples occur across almost all life forms and taxonomic groups, including trees, birds, mammals, herbs, and insects.[13] By proposing harvest prescriptions that retain biological legacies and use less intensive approaches to re-establishment of closed forest canopies, Alternative B represents an opportunity to both produce timber yields and reintroduce functional early seral habitat onto the landscape.

Recommendations:

- We recommend that BLM utilize the harvest land base strategy from Alternative B as the basis for the final harvest strategy in the FEIS/proposed RMP. The management concepts explored in Alternative B are consistent with the recovery plan for the northern spotted owl; allow for continuity of key landscape functions; and provide for the establishment of functional early seral habitat.
- Because the Alternative B approach would be a departure from past management on BLM land we recommend that the harvest land base strategy be carefully assessed and monitored. The monitoring strategy (see "monitoring" comments below) should lay the groundwork for how the harvest land base approach would be assessed in terms of implementation and effectiveness.

Monitoring

Page 39 of the DEIS states that under all action alternatives, the BLM would implement administrative actions at approximately the same levels as during the past decade. Those administrative actions would include "Project implementation and plan effectiveness monitoring" and "Wildlife, fisheries, or plant population monitoring." We appreciate this commitment. Monitoring is critical to effective plan implementation, and the cornerstone of adaptive management. It is also required under BLM regulations, which require that RMP revisions be based on monitoring and evaluation findings, new data, new or revised policy and changes in circumstances affecting the entire plan or major portions of the plan" (43 CFR 1610.5-6).

Given the important role of monitoring within the plan implementation process, we would like to see a more robust discussion of how monitoring will be carried forward under the new RMP. We appreciate

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[11] Swanson, M., J.F. Franklin, R.L. Beschta. 2011. The forgotten stage of forest succession: Early-successional ecosystems on forest sites. *Front. Ecol. Environ.* 9:117–125. (Swanson et al. 2011).

[12] Spies, T.A., K. Johnson, K. Burnett. 2007. Cumulative ecological and socioeconomic effects of forest policies in coastal Oregon. *Ecol. Appl.* 88(1):5-17

[13] Swanson, Mark E. 2102. Early Seral Forest in the Pacific Northwest: A Literature Review and Synthesis of Current Science. Available at: https://ncfp.files.wordpress.com/2012/06/swanson_20120111.pdf

that monitoring is a process, and that processes are difficult to analyze in the context of an environmental impact statement (that is, there are no inherent environmental impacts associated with establishing or continuing a monitoring program). It would be appropriate, however, to include the details of monitoring plan within an appendix to the FEIS/ROD.

Recommendation:
We recommend that a monitoring plan be included as an appendix to the FEIS/ROD. The monitoring plan should establish how watershed-scale information/watershed analysis will inform monitoring priorities; lay out monitoring questions that will be used to inform the adaptive management process; and discuss how localized monitoring information will be compiled and placed in a broader, regional context.

Climate Change
In our June, 2012 scoping comments and again in our November, 2013 comments on the planning criteria, the EPA made recommendations related to the analysis of climate change effects. We appreciate the responsiveness of the DEIS to those comments and recommendations. The draft RMP/EIS provides a robust analysis of climate change issues, including the impacts of BLM management on carbon storage; the impacts of BLM management on greenhouse gas emissions; the interaction between climate change and BLM management on outcomes for key natural resources and processes; and the potential effects of alternatives in adapting to climate change. We believe this analysis is fully consistent with the Revised Draft Guidance for Greenhouse Gas Emissions and Climate Change Impacts issued by the Council on Environmental Quality in December of 2014.[14] Further, we believe this analysis, when final, can serve as a model for other planning efforts seeking to include a robust analysis of climate change effects.

While the analysis does not find strong differences among the alternatives with regard to carbon storage or greenhouse gas emissions, the analysis does demonstrate that active management could provide opportunities to implement climate change adaptive strategies. Based on the Climate Change analysis (pages 132-165 of the DEIS) and the Fire and Fuels analysis (pages 173-217 of the DEIS), we find that the Alternative B harvest strategy performs well relative to the other analyzed alternatives in terms of providing the latitude needed to increase landscape resiliency to the effects of climate change. As noted on page 198 of the DEIS, Alternative B would reduce the amount of acreage in low or moderate fire resistance to a greater extent than Alternatives A and C. Furthermore, Alternative B would maximize the number of acres in the Uneven-Aged Timber Area, and provide management direction to increase fine-scale within-stand heterogeneity. As noted on page 195 of the DEIS, the creation of small openings and heterogeneous stand composition would move vegetation patterns and fuel loadings and arrangements toward conditions comparable to low and mixed severity fire regimes.

Recommendation
In order to provide for landscape resilience, particularly in the dry forest in the interior/south portions of the planning area, we recommend that the Uneven-Aged Timber Area management direction under Alternative B be incorporated into the final RMP/EIS.

[14] https://www.whitehouse.gov/administration/eop/ceq/initiatives/nepa/ghg-guidance

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
West Coast Region
1201 NE Lloyd Boulevard, Suite 1100
Portland, OR 97232

August 21, 2015

Jerome E. Perez
Bureau of Land Management State Director
Oregon State Office
P.O. Box 2965
Portland, Oregon 97208

Re: Review of Draft Environmental Impact Statement for the Revision of the Resource Management Plan of the Western Oregon Bureau of Land Management Districts

Dear Mr. Perez:

The National Marine Fisheries Service (NMFS) is pleased to provide comments on the draft environmental impact statement (DEIS) for the Revision of the Resource Management Plan (RMP) of the Western Oregon Bureau of Land Management (BLM) Districts of Salem, Eugene, Coos Bay, Roseburg, and Medford, and the Klamath Falls Resource Area of the Lakeview District, dated April 24, 2015. According to the DEIS, the BLM proposes to revise the resource management plans for each of the districts, and provide guidance for future management of approximately 2.5 million acres of public land in the coastal mountains and on the west slope of the Cascade Mountains in Oregon.

In April 2013, the BLM requested that NMFS, Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), Association of O & C Counties, Oregon Department of Fish and Wildlife, Oregon Department of Environmental Quality, and Oregon Department of Forestry provide feedback on the RMP. This team was called the Cooperating Agency Advisory Group (CAAG). As part of the CAAG, several committees were formed to assist the BLM staff with alternative development and data sources. For example, NMFS, EPA, and USFWS worked with BLM on an Endangered Species Act (ESA) Technical Team. The mission of this team was to develop riparian alternatives with the goal to protect fish and water quality. Please incorporate the comments we provided at the meetings of the Technical Team into the final environmental impact statement, as appropriate.

In addition to those previously provided comments, we have enclosed additional comments that have arisen following a thorough review of the DEIS. The comments are based on a review by my Oregon Washington Coastal Area Office staff, as well as by staff of NMFS' Northwest Fisheries Science Center (NWFSC).

We are providing these comments due to our responsibilities to manage, conserve, and protect marine and coastal living resources as provided under the ESA, the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and the Fish and Wildlife Coordination Act. In all cases, the comments are relevant, either directly or indirectly, to our responsibilities under the aforementioned statutes, and are consistent with the agency's regulatory obligation to its trust resources.

These comments do not satisfy the obligation of the BLM to consult under the ESA or MSA on the selected alternative. The BLM signed an ESA Consultation Agreement with NMFS and USFWS, which identified responsibilities for each agency and defines the processes, products, actions, timeframe, and expectations for the consultation process. The following species of Pacific salmon and steelhead that are listed as threatened species under the ESA occur within the planning area for the proposed action: Lower Columbia River and Upper Willamette River Chinook salmon; Southern Oregon/Northern California Coast, Oregon Coast, and Lower Columbia River coho salmon; Columbia River chum salmon; Upper Willamette River and Lower Columbia River steelhead; southern distinct population of green sturgeon; and southern distinct population of eulachon. The NMFS has designated critical habitat for all of the above listed species except Lower Columbia River coho salmon, for which it has proposed critical habitat. The NMFS also designated essential fish habitat (EFH) under the MSA for Chinook salmon and coho salmon within the planning area. Additional EFH for species of groundfish and coastal pelagics occurs within areas that will be affected by BLM's actions.

The following is a summary of the major issues with the DEIS and with the preferred alternative that NMFS found in its review of the DEIS:

1. The riparian management scenario proposed in the preferred Alternative B, and Alternative C, would not adequately maintain and restore all of the riparian and aquatic habitat conditions and processes that are critical to the conservation of anadromous fish (in particular, wood delivery to streams, maintenance of stream shade and water temperature, and filtering of nutrients and sediment before delivery to streams).
2. The action alternatives do not incorporate a watershed-scale analysis or analytic protocol that establishes a necessary context to ensure that the plan, and subsequent projects under the plan, are consistent with, and further the conservation of, ESA-listed anadromous fish nor our other trust resources managed under the MSA.

My staff, in conjunction with EPA and BLM, has begun to formulate a framework that would help to address some of the issues that are listed above and described more fully in the enclosure. We would like to work closely with your staff to incorporate this framework into the proposed action before release of the FEIS. The key elements are listed below:

1. Identification and differential management of a network of aquatic-emphasis watersheds for fish recovery, public water supply, and water quality.
2. Use of watershed-scale assessment and planning to guide land management actions.
3. Protection of current high-quality fish habitat, in addition to restoration of habitat with high intrinsic geomorphic potential as is planned.

4. Adjusted riparian management areas (RMAs) with more conservative management in aquatic-emphasis watersheds.
5. Standards and guidelines (management objectives and direction) that are mandatory, but are selected based on type of management action and site conditions.

We appreciate the opportunity to comment on this DEIS and look forward to continuing to provide BLM with assistance on development of the FEIS. Please direct questions regarding this letter to Ken Phippen, 541-957-3385, Jim Muck, 541-957-3394, Mischa Connine, 503-230-5401, or Jeff Lockwood, 503-231-2249 in the Oregon and Washington Coastal Area Office.

Sincerely,

Kim W. Kratz, Ph.D.
Assistant Regional Administrator
Oregon Washington Coastal Office

Enclosure Comments on Draft Environmental Impact Statement for the Revision of the Resource Management Plan of the Western Oregon Bureau of Land Management Districts

cc: Richard Hardt, BLM
Teresa Kubo, EPA
Brenden White, USFWS
Paul Bridges, USFWS
Mark Brown, BLM
Cory Sipher, BLM
Scott Lightcap, BLM

Comments of National Marine Fisheries Service, West Coast Region On the Draft Environmental Impact Statement for Revision of the Resource Management Plan of the Western Oregon Bureau of Land Management Districts

August 21, 2015

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GENERAL COMMENTS ON CONSERVATION OF ESA-LISTED FISH

The following species of Pacific salmon and steelhead that NMFS has listed or proposed for listing under the ESA occur within the planning area for the proposed action: Lower Columbia River and Upper Willamette River Chinook salmon; Southern Oregon/Northern California Coast, Oregon Coast, and Lower Columbia River coho salmon; Columbia River chum salmon; Upper Willamette River and Lower Columbia River steelhead; southern distinct population of green sturgeon; and southern distinct population of eulachon. All of the above species are listed as threatened. The NMFS has designated critical habitat for all of the above listed species except Lower Columbia River coho salmon, for which we proposed critical habitat. The NMFS also designated essential fish habitat (EFH) under the MSA for Chinook salmon and coho salmon within the planning area. Additional EFH for species of groundfish and coastal pelagics occurs within areas to be affected by BLM's actions.

A watershed perspective is needed to identify and assess biological habitat refugia and highly productive habitat patches, and to assess connectivity between these areas and between fish population segments (Sedell et al. 1990, Naiman et al. 1992, Li et al. 1995, Bisson et al. 1997). For these reasons, habitat conservation and restoration strategies are most likely to be effective if carried out at the scale of the watershed (or composites of multiple watersheds in a species' range; Reeves et al. 1995, Frissell and Bayles 1996), not the stream reach (Reeves and Sedell 1992, Botkin et al. 1995, National Research Council 1996, Nehlsen 1997).

As described in previous meetings, NMFS would like to work with BLM to develop the following components of a comprehensive conservation strategy for ESA-listed fish:

1. Network of aquatic-emphasis watersheds for fish recovery, public water supply, and water quality.

   NMFS would like to work with the BLM to develop a network of aquatic-emphasis watersheds, that would be managed in a more biologically conservative manner, to provide an adequate level of confidence that habitat essential for recovery of ESA-listed species will be maintained and improve over time at the watershed scale.

2. Watershed-scale assessment and planning to guide recovery and other land management actions.

   The selected alternative in the FEIS should commit to continued use of existing Federal watershed analyses, source water protection plans, and local watershed analyses for planning and implementing land management actions, particularly in aquatic emphasis watersheds. The selected alternative should require use of watershed-scale information when planning actions at the reach scale, and updating existing watershed analyses with new information, as it becomes available.

3. Standards and guidelines to aid project development and implementation.

The selected alternative in the FEIS should include mandatory standards and guidelines to set sidebars for individual actions. Management activities should be constrained under the standards and guidelines depending on whether they would contribute to or delay attainment of the aquatic habitat objectives similar to those identified in the nine objectives of the aquatic conservation strategy of the Northwest Forest Plan. NMFS has been actively working with the BLM during our ESA Technical Team meetings to identify these types of management directions versus best management practices.

4. Provisions to protect and restore high-quality fish habitats.

Successful conservation of ESA-listed fish will require the protection of currently functioning high quality or highly productive fish habitat, at the watershed scale, in addition to restoring habitat with high intrinsic geomorphic potential (IP).

DESCRIPTION OF THE ALTERNATIVES

Management Common to All Alternatives

The DEIS (p. 36-37) lists Riparian Reserve objectives common to all alternatives:

- Contribute to the conservation and recovery of listed fish species and their habitats and provide for conservation of special status fish and other special status riparian associated species;
- Maintain and restore riparian areas, stream channels and wetlands by providing forest shade, sediment filtering, wood recruitment, stability of stream banks and channels, water storage and release, vegetation diversity, nutrient cycling, and cool and moist microclimates;
- Maintain water quality and stream flows within the range of natural variability, to protect aquatic biodiversity, and provide quality water for contact recreation and drinking water sources;
- Meet Oregon Department of Environmental Quality (ODEQ) water quality targets for 303(d) water bodies with approved Total Maximum Daily Loads (TMDLs);
- Maintain high quality water and contribute to the restoration of degraded water quality
- downstream of BLM-administered lands; and
- Maintain high quality waters within ODEQ designated Source Water Protection watersheds.

The DEIS (p. 38) also lists one fisheries objective that applies to all alternatives:

- The BLM would manage riparian areas to maintain and improve the aquatic habitat across the landscape.

Riparian Reserve Management in Each Alternative

No Action Alternative (Current NW Forest Plan)

The greater of: two site-potential tree height (SPTH) or 300 feet slope distance for fish-bearing streams, one SPTH or 150 feet (ft) for perennial non fish-bearing streams, and one SPTH or 100 ft for seasonal or intermittent streams. The Riparian Reserve does not include an inner zone in which thinning is not permitted, but the NWFP restricts thinning only to actions which help to obtain ACS conservation objectives.

Alternative A

- One SPTH on either side of fish-bearing and perennial streams;

The Riparian Reserve includes an inner zone in which thinning is not permitted. Inner zone widths are:

- 120 ft on either side of perennial and fish-bearing intermittent streams; and
- 50 ft on either side of non-fish-bearing, intermittent streams.

Outside of the inner zone, the BLM would conduct restoration thinning as needed to ensure that stands are able to provide trees to form stable instream structures. In moist forests, the BLM would conduct restoration thinning without commercial removal of timber (i.e., coarse woody debris and snag creation only). In dry forests, restoration activities would include prescribed burning and thinning that would include removal of cut trees, including commercial removal, as needed to reduce the risk of uncharacteristic high-severity or high-intensity fire.

Alternative B (Preferred)

- One SPTH on either side of fish-bearing and perennial streams;
- 100 ft on either side of debris-flow-prone, non-fish-bearing, intermittent streams; and
- 50 ft on either side of other non-fish-bearing, intermittent streams.

The Riparian Reserve includes an inner zone in which thinning is not permitted. Inner zone widths are:

- 60 ft on either side of perennial and fish-bearing intermittent streams; and
- 50 ft on either side of non-fish-bearing, intermittent streams.

Outside of the inner zone, the BLM would conduct restoration thinning, which may include commercial removal, as needed to develop diverse and structurally-complex riparian stands**.**

Alternative C

- 150 ft on either side of fish-bearing and perennial streams; and
- 50 ft on either side of non-fish-bearing, intermittent streams.

The Riparian Reserve includes an inner zone in which thinning is not permitted. Inner zone widths are:

- 60 ft on either side of fish-bearing and perennial streams; and

- 50 ft on either side of non-fish-bearing, intermittent streams.

Outside of the inner zone, the BLM would conduct restoration thinning, which may include commercial removal, as needed to develop diverse and structurally-complex riparian stands.

Alternative D

- One SPTH on either side of fish-bearing and perennial streams;

The Riparian Reserve includes an inner zone in which thinning is not permitted. Inner zone widths are:

- 120 ft on either side of all streams

Outside of the inner zone, the BLM would conduct restoration thinning, which may include commercial removal, as needed to ensure that stands are able to provide stable wood to the stream.

OVERVIEW OF THE ACTION ALTERNATIVES IN RELATION TO THE NORTHWEST FOREST PLAN

All four of the "Action" Alternatives (Alternatives A-D) in the DEIS are a substantial departure from watershed and aquatic habitat protections currently in place under the NW Forest Plan. The DEIS estimates that the BLM has 938,467 acres of its land in Riparian Reserves. The Action Alternatives will open to timber harvest between 54-81% (509,000-780,000 acres) of the existing Riparian Reserve acreage, with the amounts varying by Alternatives A through D (see Table 1 below). Within Riparian Reserve areas open to thinning, between 75-100% of the existing trees may be removed, though this finding depends on how contradictory information within the DEIS is interpreted (discussed below in Riparian Wood section).

Although the DEIS proposes substantial reductions in Riparian Reserves and other protections (Table 1), the DEIS paradoxically concludes that for many parameters related to riparian and aquatic ecosystem conservation, Action Alternatives A through D will have little to no effect relative to the No Action Alternative or to each other (e.g., see DEIS Figures 3-51 through 3-57). The basis for this rather counterintuitive conclusion is unclear, and at variance with numerous published scientific findings, including the vast body of scientific literature that was used in the original development of the Riparian Reserve and Key Watershed systems (see FEMAT 1993 and USDA and USDI 1994).

Table 1. Comparison of the proposed DEIS alternatives in terms of Riparian Reserve acreage that will be open to timber harvest, either through transfer to commercial logging lands ("Matrix" lands) or by allowing heavy thinning (75-80% tree removal) in the outer zone of the Riparian Reserves. Alternative B is the DEIS Preferred Alternative and is the least protective of all the Alternatives, providing "no-cut" protection for <20% of the current Riparian Reserves. Table derived from data in DEIS Figure 3-88.

	DEIS Alternative				
	No Action	A	B	C	D
Total Riparian Reserve	938,467	676,917	382,805	372,739	714,629
Transferred to matrix lands	0	261,550	555,662	565,728	223,838
Heavy thinning in RR allowed	0	406,295	201,737	109,844	285,852
Total RR open to timber harvest	0	667,845	757,399	675,572	509,690
Total RR open to timber harvest (%)	0.0%	71.2%	80.7%**	72.0%	54.3%
Remaining "no-cut" acreage	938,467*	270,623	181,069	262,895	428,777
Remaining "no-cut" acreage (%)	100.0%*	28.8%	19.3%	28.0%	45.7%

*Not an absolute "no-cut", as the NWFP currently allows limited thinning under strict "standards and guidelines", if such thinning is necessary to meet ACS conservation objectives.
**The exact percentage will vary from between 80.7% and 83.2% depending on the amount of intermittent streams that are debris-flow prone (see above section on comparison of Alternatives).

Unexplained in the DEIS is the scientific basis for concluding that the proposed, substantially smaller Riparian Reserves and the proposed increased timber harvest activities within the smaller Reserves are sufficient for the needs of salmon and other riparian-dependent species. The Riparian Reserves created by the Northwest Forest Plan (USDA and USDI 1994) were developed by a broad group of scientists and reflected the general scientific consensus at the time as to the level of protection needed for the recovery of salmon over a 100-year time frame and was considered by the federal courts to be the "bare minimum" necessary for the recovery of salmon. Several Riparian Reserve options proposed at that time were more protective than the current proposed BLM DEIS Reserves but were rejected as inadequate. Since that time, the scientific consensus has not changed, and available evidence suggests that implementation of the NWFP has in fact resulted in slowly improving habitat conditions for salmonids (see recent review in Frissell et al. 2014). The DEIS is (implicitly) making an extraordinary claim; that the FEMAT science team (and the Federal courts) were in error, and that up to 81% of the existing Riparian Reserve network can be opened for substantially increased levels of timber harvest (i.e. the Preferred Alternative B), with little effect on salmon and other riparian-dependent species and the habitat upon which they depend. It is an axiom in science that extraordinary claims require extraordinary proof, yet the DEIS provides little data or even logical cohesion in support of this extraordinary shift in fundamental scientific assumptions.

FEMAT (1993) articulated the Aquatic Conservation Strategy (ACS) with two spatial and two programmatic components for managing watersheds and riparian areas: (1) *Key Watersheds*, a land allocation comprising hydrologically discrete areas that putatively contain much of the remaining

higher-quality aquatic habitat and offer the greatest potential protection for recovering at-risk fish species. These watersheds are priorities for active restoration, are subject to a "no net increase" mandate for road density and watershed analysis mandate for major land use activities. (2) *Riparian Reserves,* a land allocation of varying widths along streams and lakes where aquatic and riparian objectives receive primary emphasis and where management is constrained according to activity-specific standards and guidelines. (3) *Watershed Analysis* is an assessment procedure designed to recommend how to tailor management priorities and actions to the biophysical limitations and perceived restoration needs of individual watersheds. (4) *Watershed Restoration,* a long-term program of somewhat unspecified scope and content, but which may include such wide-ranging provisions as road decommissioning, instream habitat alterations, and other measures (USDA and USDI 1994).

Late Successional Reserves, Congressionally designated reserves, and administratively withdrawn areas are land allocations outside of the specific components of the ACS, but they provide additional protection for portions of watersheds, riparian and aquatic ecosystems, particularly in terms of how they regulate landscape-wide management disturbances. In turn, aspects of the ACS also help provide habitat and connectivity for terrestrial wildlife species (USDA and USDI 1994, p.7). Many birds, mammals, amphibians, and invertebrates benefit from roadless areas (Trombulak and Frissell 2000); require large trees or wood debris for nesting or other uses; or rely on riparian forests for refuge, foraging, or dispersal (Pollock and Beechie 2014). BLM's large-scale re-formulation of the area and location of such forest reserves calls for a fundamental re-analysis of the adequacy of the DEIS alternatives to support the habitat conditions necessary for recovery of listed fish and conservation of other values fish and wildlife species. The DEIS lacks such an analysis, ignoring without explanation that FEMAT in 1993 provided an exemplary template for how to conduct such analyses in a defensible way using best available scientific information to inform planning design and NEPA analysis of large-scale forest management programs.

In proposing such substantive changes outlined in the Action Alternatives, the BLM needs to more clearly explain why they are proposing such a substantial departure from the science-based NWFP. For example, in addition to the land allocations, the ACS imposes constraints on habitat-degrading management activities in two other ways: (1) It provides binding *standards and guidelines* that explicitly constrain numerous potential management activities within riparian reserves and key watersheds and: (2) it requires all management activities on surrounding federal forestlands to be consistent with maintaining and restoring watershed functions and processes that are described in nine narrative ACS objectives. The activity-specific standards and guidelines were intended to prohibit and regulate activities in Riparian Reserves that retard or prevent attainment of the ACS objectives (USDA and USDI 1994). The requirement that management activities may not retard recovery is a potent requirement and one that appears to be absent in the DEIS. In order to ensure an action does not retard or prevent attainment of recovery, managers must ascertain the net effects of any proposed action on natural recovery processes at site-specific areas and larger spatial scales. This requirement addresses the observation (FEMAT, 1993) that past ecological degradation caused by numerous incremental harms often is not recognized. Cumulative effects across the landscape commonly offset gains from those passive or active management measures claimed to benefit ecological conditions and aquatic resource values.

During the mid-1990s, some federal agencies argued that site-specific failure to meet ACS objectives was broadly acceptable if unacceptable outcomes were not expected to be observed at larger scales.

However, courts have validated that the conservation burdens delineated in the ACS apply to both site- or project-specific as well as larger scales, such as a watershed, planning area, or national forest. The guiding language in the nine narrative ACS objectives directs managers to "maintain and restore" specifically identified ecological conditions and functions. Hence management activities that will affect aquatic ecosystems may be pursued only under a reasonable assurance that they are restorative or protective in nature. It is not sufficient that management activities produce acceptably small adverse impacts, or cause harms that might potentially be mitigated by other measures. Nowhere in the DEIS is language included upholding this central guiding tenet of the ACS, and the environmental effects of this omission, with its dramatic shift in the burden of proof for agency actions, could be substantial.

Courts have ruled that FEMAT (1993) embodies the best available scientific information pertaining to the impacts of forestry activities on salmon and their habitat in the Pacific Northwest federal forests and that the Plan adequately integrates FEMAT's scientific representations. Several scientific reviews (e.g., Reeves et al. 2006, Everest and Reeves 2006) have broadly concluded that while a great deal of new information has been published, the fundamentals and rationale of FEMAT and the ACS remain consistent with available scientific information. Nonetheless, the proposed DEIS substantially reduces the environmental protections in the NWFP while bringing little in the way of new science to the table to substantiate its assertions.

While the majority of distribution of salmon species in the Pacific Northwest lies downstream of federal forest watersheds, the federal lands provide important high-quality refugia for many populations (Burnett et al. 2006), and federal forests confer regional hydrologic benefit to water quality and ecosystem integrity downstream. Implementation of the ACS on federal forests has become a foundational baseline component for attainment of salmonid recovery under the Endangered Species Act and of water quality standards under the Clean Water Act. For example, federal ESA salmon recovery plans in Oregon and California rely heavily on Plan implementation (e.g., NMFS 2007a, p. 402-403, NMFS 2012, p. 3-48, 49). Furthermore, because of the extent to which ACS implementation is widely assumed to represent the federal contribution to aquatic ecosystem conservation, the proposed changes envisioned in the DEIS have regulatory implications for nonfederal lands. The DEIS should disclose the potential consequences of reducing aquatic resource protections for other agencies and conservation and land management efforts. For example, the underlying analyses of Habitat Conservation Plans granted to nonfederal landowners in the Pacific Northwest under the ESA, with assurances extending 40 to 50 years, explicitly rest on full ACS implementation on surrounding federal lands. (See e.g. WA DNR 1997). Similar expectations undergird the state of Oregon's restoration plan for salmon and water quality. In basins where water quality standards are not being met, state and federal regulators routinely consider the ACS to be an adequate implementation plan for BLM and Forest Service managers. Substantive alteration and weakening of the ACS threatens to upset a complicated web of region-wide conservation planning that is explicitly and implicitly dependent on the future habitat quality and recovery rate that the ACS is designed to achieve. A fundamental alteration of the ACS potentially re-opens all such agreements across the region to cascading re-analysis and renegotiation, and the DEIS should acknowledge and fully address possible consequences for these affected parties, and inform the public and other agencies of this exigency.

FEMAT's Basis for the Design of Riparian Reserves

Based on the nested set of ecological rationales considered in FEMAT (1993), the ACS specified a set of "default" widths of the Riparian Reserve land allocation to be a) at least two site-potential tree heights on either side of fish-bearing streams, and b) at least one tree height on non-fish-bearing streams. Within these reserves, the conservation of aquatic and riparian-dependent terrestrial resources receives primary emphasis. Beyond these default delineations, Riparian Reserves must be drawn to protect areas susceptible to channel erosion and mass wasting. The Riparian Reserve widths were based on ecosystem process considerations (FEMAT 1993, Olson et al. 2007) and broadly specified population viability and habitat considerations for seven groups of salmonids and many terrestrial and avian species. Very few of the many completed watershed analyses offered a scientific rationale for reducing default Riparian Reserve areas in any location; a larger number identified site-specific reasons to expand Riparian Reserves beyond the specified default widths (Pacific Rivers Council 2008). The DEIS should explain the basis for concluding that smaller Riparian Reserves are adequate when FEMAT and the subsequent accumulation of scientific evidence suggests otherwise.

COMMENTS ON THE "AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES"

Stream Temperature and Shade

Stream temperature is discussed in the Hydrology section (p. 286) of the DEIS, which identified a key point related to stream shade and stream temperature between the alternatives:

- The BLM analyzed stream shading using two methods. By one method, all alternatives would avoid any measurable increases in stream temperature. The other method identified a small percentage of streams where forest management in the outer Riparian Reserve under Alternatives B and C would potentially affect stream temperature.

The DEIS uses stream shade (and only stream shade) to evaluate the changes in stream temperature because stream temperature is often correlated to the extent and quality of shading vegetation (see section below "Additional Comments on Stream Temperature" for a more expansive discussion of factors affecting stream temperature)

Method A

Method A uses the SHADOW model that is the basis for the Northwest Forest Plan Temperature Total Maximum Daily Load Implementation Strategies (Strategies) (USDA Forest Service and USDI Bureau of Land Management 2005) in analyzing the effects of proposed silvicultural activities on stream shade. The Strategies document provides several pathways for calculating the width of the riparian area adjacent to perennial stream channels that provides stream shade for the period of greatest solar loading (between 1000 and 1400 hours), known as the primary shade zone. It also provides the process for calculating the width of the riparian area that provides shade in the morning and afternoon (0600 to 1000 and 1400 to 1800 hours), known as the secondary shade zone. Fig. 11 of the Strategies indicates that 58% of the total solar radiation that could reach streams occurs between 1000 and 1400 hours, and that 42% of solar radiation

occurs during the rest of the day. Although the Strategies include a set of nomographs designed to help land managers determine the amount of "effective shade[1]" provided under varying stream orientation, tree heights, and slope in situations where the managers do not choose to model the shade provided by a thinning prescription, in practice, most projects reviewed by NMFS that have used the Strategies at all have used neither the nomographs nor a model, but default values for the primary shade zone provided in Table 3 of the Strategies, which gives a minimum width for the primary shade zone of 50 to 60 ft that is commonly used as the size of the no-cut buffer in thinning proposals from administrative units that use the Strategies. Outside of the no-cut buffers, some administrative units are applying silvicultural prescriptions that require retention of 50% canopy closure from the outer edge of the no-cut buffer to the outer edge of the secondary shade zone, which is defined in the Strategies (p. 21) as the area that provides shade during the "morning and afternoon hours (e.g., 0600 to 1000 hours and 1400 to 1800 hours)."

Results.
The DEIS states (p. 295-296) that Alternatives A and D, and Alternative B and C are very similar in shading effects and are grouped together for discussion.

The results from Method A show that Alternatives A and D would overlay the primary and secondary shade zone plus an additional 20-foot retention (120-foot no-cut buffer, and 150-foot Riparian Reserve). Based on this, Method A shows that Alternatives A and D would be fully protective of stream shade.

The results from Method A show that Alternative B and C would match the primary shade zone (60-foot no-cut buffer), and the outer managed zone would exceed the secondary shade zone (60 to 100 ft). Alternative B would exceed the secondary shade zone by an average of 80 ft, and Alternative C would exceed the secondary shade zone by 50 ft. In addition, the outer managed zones would maintain a minimum 50% canopy cover, and a minimum of 80 TPA. Based on this, Model A shows that Alternatives B and C would maintain stream shading sufficient to avoid increases in stream temperatures.

NMFS' Comments on Method A.
We commented on the Strategies in a May 22, 2007, letter (Appendix 3 in NMFS 2007b), and again on July 23, 2010 (NMFS 2007b). Among other comments, NMFS noted that the Strategies lacks documentation of the data set used to develop the SHADOW model that is the basis for the Strategies, and includes no information about model validation, confidence limits and uncertainties[2]. We discussed these and other problems regarding the Strategies in a series of discussions with the USFS and BLM that culminated in a day-long workshop on September 2, 2009, that included representatives from USFS, BLM, NMFS, and EPA. In that meeting, the developer of the model described the basis of the model and how it was used to develop the Strategies. The NMFS and EPA identified the following problems with the Strategies:

[1] Effective shade is defined in the Strategies document as: (total solar radiation - total solar radiation reaching the stream)/total solar radiation
[2] The USFS has since provided NMFS with documentation for the model, and we can provide this upon request. The NMFS has not evaluated this information to see how well it addresses our concerns regarding model documentation.

- The paper advocates thinning to improve stream shade but does not explain how removal of vegetation by thinning could increase shade.
- The paper does not recommend any limit on thinning to avoid cumulative effects in heavily thinned watersheds.
- Table 3 is relied on by the land management agencies to apply the strategy, but it does not include information for trees greater than 100 ft in height, and the land management agencies have been submitting some thinning proposals with trees greater than 100 ft in height. The land management agencies have since reported that a new version of the Strategies includes trees up to 140 ft in height in Table 3, and although NMFS has seen the new table, it not seen the entire new version.
- Table 3 assumes uniform slopes adjacent to streams and uniform, dense conifer stands adjacent to streams, but in the field these assumptions are not always met. For example, where dense hardwood stands predominate the near-stream zone shade, the consequences of thinning the conifer zone may differ from those predicted in the paper. Or, where slopes shift moving away from streams to a steeper condition, the distance from the stream where a tree of a given height could provide shade would increase. The paper does not include guidance for how to deal with these common situations.
- Fig. 2 in paper shows very little difference in stream temperature between 80% shade and 100% shade, but this was a modeled result and is not based on empirical data.
- Fig. 6 also focuses on the 80% shade value, and there is a risk that land managers will focus on this number and reduce shade to 80% in areas where site-potential shade is higher, even though this value has weak empirical support.
- Fig. 8 (relationship between angular canopy density and buffer widths) is based on only one paper from 1972. Other papers containing information on this relationship (e.g., Steinblums et al. 1984) should be included in the approach.
- The citation for Fig. 10 (relationship between angular canopy density and stream shade) is not included in the References section of the paper, but according to the model's developer it is based on model runs, not empirical data. The paper should discuss available empirical data on this relationship, such as is given in Teti (2006), which shows that effective shade continues to increase steadily, even at high values of angular canopy density, unlike the model results in Fig. 10.
- The Strategies document does not provide any data describing the amount of shade provided by retaining of the 50% canopy closure in the "secondary shade zone". We understand this to be a negotiated value.

Additional information about problems with the Strategies document is in a November 18, 2004, memorandum from Peter Leinenbach, EPA (Appendix 4 in NMFS 2007b) and a June 19, 2007, email from Greg Pelletier, Washington Department of Ecology, that is embedded in a April 7, 2009, email from David Powers, EPA (Appendix 5 in NMFS 2007b).

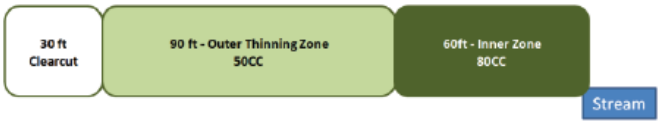
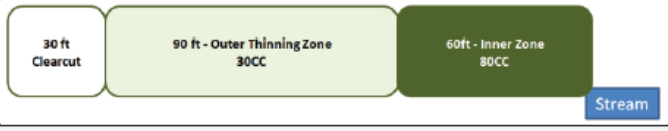
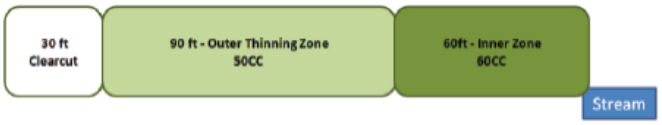
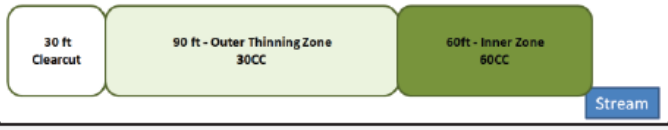
Method B

Method B, proposed by the EPA, presents a mechanistic modeling approach that uses the ODEQ shade model to develop shade loss tables for each alternative Riparian Reserve design. The rationale uses a before-after-control-impact design, where observed changes in stream temperature are due to the difference between pre-harvest and post-harvest monitoring (Groom *et*

al. 2011a). The EPA methodology considers whether various widths and canopy cover densities in inner and outer zones of the Riparian Reserve would result in shade loss associated with management that would increase stream temperature. Although Groom *et al*. (2011a) determined that levels less than 6% shade loss would have no statistical effect on raising stream temperatures, the EPA has proposed an analytical threshold of no greater than 3% shade loss level, to allow for a factor of safety. In this analysis, shade loss levels greater than 3% would represent a risk of stream temperature increases. Method B may overestimate shade loss by not considering topographic shade; however, Method B tracks stream orientation in shade loss outputs.

Results.
In this analysis, the BLM and EPA calculated shade lost from the combination of the existing canopy density of the inner zone and the outer zone with an alternative's management direction to retain a specific threshold of canopy cover (Table 2 below, Tables 3-70 in DEIS, p. 289).

Table 2. Modeled shade loss for a 150-foot-wide Riparian Reserve, with a 60-foot inner no harvest zone, at various thinning intensities and initial canopy conditions (EPA 2014).

Scenario (Two Sided Treatments)	Stream Aspect			
	North South	NW/SE	East West	Average
Pre-harvest Condition - 80% Canopy Cover				
	1.3	1.1	0.9	1.1
	2.6	1.9	1.3	1.9
	4.4	3.0	1.6	3.0
Pre-harvest Condition - 60% Canopy Cover				
	5.7	4.9	5.6	5.4
	9.7	7.7	6.9	8.1
Pre-harvest Condition - 40% Canopy Cover				
	13.8	12.7	16.2	14.2

The DEIS states (p. 296-297) that as in Method A, the results are clustered: No Action and Alternatives A and D would have similar effects on stream shading, and Alternatives B and C would have similar effects on stream shading (Figure 1 below, Figures 3-89 from DEIS, p. 296).

For the No Action alternative, and Alternatives A and D, there would be 3-33 miles of fish-bearing and perennial streams that would currently be susceptible to shade reductions that could affect stream temperature, which amounts to less than 0.5% of the total fish-bearing and perennial stream miles.

For Alternatives B and C, there would be 275 to 372 miles of fish-bearing and perennial streams that would currently be susceptible to shade reductions that could affect stream temperature, which amounts to 5% of the total fish-bearing and perennial stream miles.

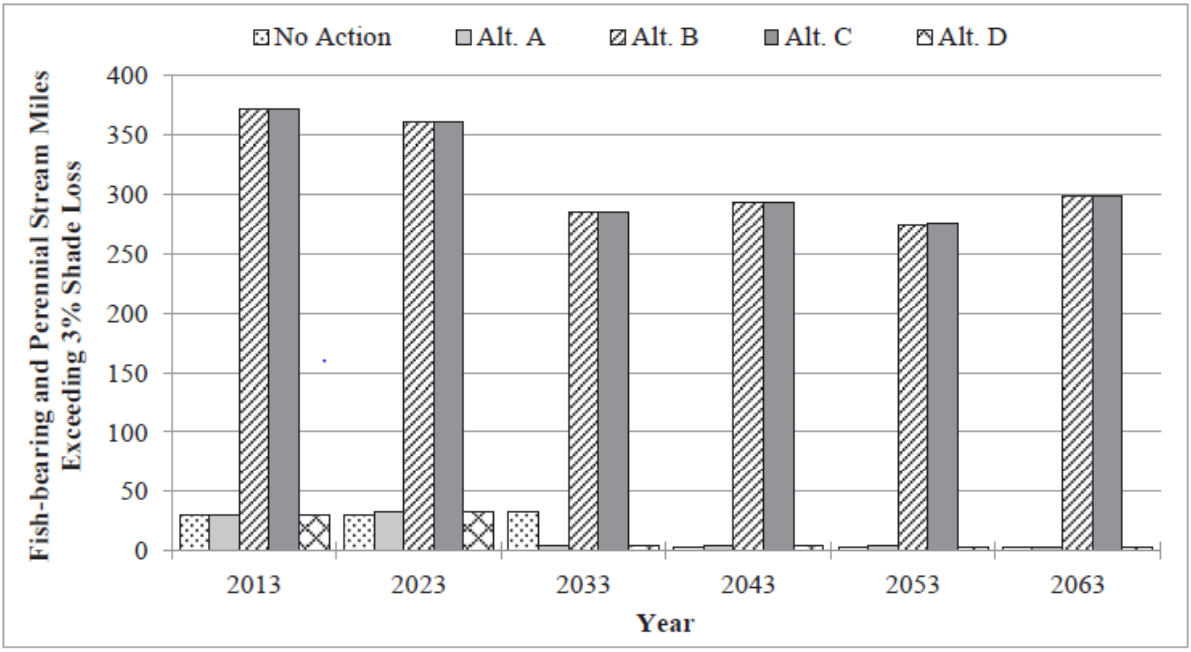


Figure 1. Fish-bearing and perennial stream miles exceeding 3% shade loss.

NMFS' Comments on Method B

The ODEQ model was used in the Method B analysis, which used algorithms of the Heat Source model. We were previously briefed on the scientific basis of the Heat Source model for stream temperature prediction (Boyd 1996) by its author during the development of the state of Oregon's water temperature standard, and are convinced that is adequately accounts for and allows quantification of all the important influences on water temperature of Pacific Northwest streams (i.e., stream channel hydraulics, flow routing, heat transfer, and effective shade).

NMFS' Recommendations on RMA Alternative Selection

Removing trees in riparian areas reduces the amount of shade which leads to increases in thermal loading to the stream (Moore and Wondzell 2005). In clearcuts, small effects on shade were observed in studies that examined no-cut buffers 46 m (150 ft) wide (Anderson et al. 2007,

Science Team Review 2008, Groom et al. 2011a, Groom et al. 2011b). The limited response observed in these studies can be attributed to the lack of trees that were capable of casting a shadow >46 m (150 ft) during most of the day in the summer (Leinenbach 2011). Although clearcuts were used in these studies, the results demonstrate that vegetation that is 46 m (150 ft) away from streams contributes shade to streams in some situations.

The relationship between the width of no-cut buffers on thinning (versus clearcut) prescriptions and stream shade is difficult to generalize because of the limited number studies that have specifically evaluated these buffer conditions. As is seen in no-cut buffer widths with clearcut prescriptions, the wider no-cut buffers resulted in lower reductions of stream shade (Anderson et al. 2007, Science Team Review 2008, Park et al. 2008). In addition, the canopy density of the no-cut buffer appeared to have an ameliorating effect on thinning activities outside of the buffer, with higher protection associated with greater canopy densities in the no-cut buffer (Leinenbach et al. 2013). Finally, higher residual vegetation densities outside of the no-cut buffers were shown to result in less shade loss (Leinenbach et al. 2013).

Without site-specific information, we assume that no-cut buffer widths of 150 feet would be needed to fully protect shade (Anderson et al. 2007, Science Team Review 2008, Groom et al. 2011a, Groom et al. 2011b). We predict that Alternative B will decrease stream shade and increase stream temperature in some instances in the plan area. Streams most vulnerable to temperature increases from timber harvest would be streams with few trees and low canopy branch density (Brazier and Brown 1973, DeWalle 2010, Leinenbach *et al*. 2013). Alternative B would maintain a minimum of 80 TPA and 50% canopy cover in the outer zone and could ameliorate some of the effects of timber harvest outside of the Riparian Reserve; however, this would depend on stand density of the inner zone. In low density stands, a wider no-cut buffer would likely be needed to protect stream shade (Leinenbach *et al*. 2013). In addition, trees in the Riparian Reserve (140 to 240 feet) that are adjacent to regeneration harvest stands may be vulnerable to blowdown (Chan *et al*. 2006), thus emphasizing the importance of maintaining a larger no-cut buffer.

Alternatives A and D would provide no-harvest buffer widths of 120 ft on fish-bearing and perennial streams, with a Riparian Reserve of 1 SPTH, and would provide the majority of stream shade on most streams (Science Team Review 2008), and minimize increases in stream temperature (ODF 2015). Stream temperature is identified as a limiting factor for ESA-listed fish (NMFS 2013, ODFW and NMFS 2011). Of the Action Alternatives, Alternative A or D minimize temperature effects to ESA-listed fish and critical habitat.

<u>NMFS' Recommendations on Harvest Land Base Alternative Selection</u>

The land use allocations common to all Action Alternatives are Congressionally Reserved, District Designated Reserves, Late-Successional Reserves, Riparian Reserves, Harvest Land Base, and Eastside Management Area. The DEIS states that (p. 41) the Harvest Land Base is comprised of the Uneven-Aged Timber Area and the High Intensity Timber Area (regeneration harvest with no retention). Although harvest can occur in all land use allocations, we are focusing our comments on the Harvest Land Base because of the potential for regeneration harvest in this land use allocations. The Harvest Land Base for the action alternatives is in Table 3.

Table 3. Harvest Land Base percentages for the various action alternatives.

Alternatives	Harvest Land Base
A	14%
B	22%
Sub-B	12%
C	30%
Sub-C	20%
D	26%

In the Pacific Northwest, there is conflicting information regarding the extent to riparian and upland forest needed to maintain natural stream temperature regimes, and more generally between the relative importance of factors contributing to stream temperature increases (Pollock *et al*. 2009). The microclimate impacts of upland forest removal such as increased air temperature, reduced relative humidity, and increased wind speed, extended hundreds of meters into adjacent forest, distances far greater than the width of most riparian buffers (Chen *et al*. 1992, 1995; Brosofske *et al*. 1999). Removing upland vegetation may increase stream temperatures by increasing surface runoff, which in turn can decrease aquifer storage and decrease ground-water inflow (Grant and Swanson 1990, Jones and Grant 1996, Coutant 1999).

Pollock et al. (2009) showed the percentage of the basin harvested explained 32 to 39% in stream temperature variation. Comparisons of temperature regimes between seven unharvested subbasins (with harvest levels between 25% and 100%) demonstrate that streams in unharvested basins have cooler temperatures that fluctuate less.

Although there are several other factors that contribute to stream temperature, including riparian vegetation, and physical variables (elevation, slope, aspect, etc.) (Pollock et al. 2009), it is apparent that upland harvest levels are a key variable that affects stream temperature. Alternatives A and Sub-B would minimize the percentage of Harvest Land Base within the plan area, and would minimize increases in stream temperature. Because stream temperature is a limiting factor for ESA-listed fish (ODFW and NMFS 2011, NMFS 2013), we recommend that the BLM select either Alternative A or Sub-B for upland harvest forest management to minimize effects on ESA-listed fish and critical habitat.

Additional Comments on Stream Temperature

Conservation (including restoration) of natural thermal regimes of streams and rivers was but one of many factors considered by FEMAT (1993) when ACS default riparian reserve widths were determined in the initial design of the ACS. In recent years the land management agencies and others have commonly assumed shade from riparian vegetation is the predominant proximate control on stream temperature, and some research has suggested that trees within 30 m or so of the stream margin contribute over 90% of the effective shade (e.g., Reeves et al. 2013). Furthermore, it has been suggested that headwater streams that do not carry water in summer should presumably not need shade to conserve summer thermal maxima in downstream waters. These two premises have become a primary rationale in the DEIS and elsewhere (e.g., draft congressional legislation) to reduce default Riparian Reserve widths for some stream types, with

the intent of increasing the area of Matrix land or equivalent that is subject to commercial logging. From the perspective of temperature protection, at least four concerns cast doubt on this rationale for shrinking Riparian Reserves: Redundancy, shade density, groundwater, and channel migration. We discuss these concerns in turn below.

Redundancy: Most current analyses rest on a static view of riparian stand structure and function—that is, shade is modeled as a nearest single layer function of the existing standing trees only. The tree nearest to the stream margin is attributed as the contributor to shade, even though one or more trees standing behind it, slightly farther from the stream, may contribute shade as well. But when trees fall or die in the so-called "inner zone," then the "outer zone" trees become a non-redundant replacement source of shade. Obviously, if the outer zone trees have been logged, that functional redundancy is lost and any riparian disturbance, man-made or natural, may lead to incrementally reduced stream surface shade—and an increase in stream temperatures.

Shade Density: Whereas we measure canopy shade with fixed-resolution instruments, little is known about how measurements of shade translate to actual solar penetration. In the coarsest sense, a canopy densiometer is used to visually estimate canopy cover with only 17 sample points that are irrespective of solar path. Even more quantitative instruments, such as the Solar Pathfinder or SunEye have the tendency to overlook the value of small canopy gaps or multiple canopy thickness in reducing light intensity reaching the stream, as does the densiometer. "Redundant" tree canopies create a shade structure that is dense compared to that of a single tree, and this may substantially affect the actual solar energy reaching the water surface in ways that we that we seldom adequately measure.

Shade density and redundancy are likely two of the factors contributing to recent, state-of-the art analysis by Groom at al. (Groom et al. 2011a, 2011b, Oregon Department of Forestry 2015, additional papers currently in review) showing measurable temperature increases for virtually all logging prescriptions that result in removal of trees within 100 feet slope distance of small forest streams. Some individual sites showed temperature increases of several degrees Celsius, even with limited tree removal and shade reduction. This new research demonstrates that streams are far more sensitive to shade removal than previously appreciated, and even past thinning in Riparian Reserves under the NW Forest Plan ACS requirements as routinely implemented by BLM has likely caused water temperature increases that violate Oregon's "protecting cold water" criterion in the water temperature standard. BLM has been remiss in failing to address this research and considering its implications for past BLM practices and for the proposed stream protection measures in the current DEIS.

Groundwater: Thermal response is affected in numerous ways by near-surface groundwater, which affects both surface streamflow rate and the temperature of water at the point of delivery. After initial increases in base flow following logging, summer base flow can decline for many years as a consequence of rapidly re-growing second-growth vegetation and its evapotranspiration demand (Hicks et al. 1991, Moore and Wondzell 2005). Logging in the outer areas of Riparian Reserves or forested wetlands can contribute to or conceivably magnify this effect. Accordingly, in some Pacific Northwest watersheds, stream temperature is more strongly associated with catchment-wide logging than with streamside vegetation cover (Pollock et al.

2009). Stream warming in such watersheds (often containing gently sloping or hilly terrain and numerous forested wetlands) could be influenced by reduced canopy shade over large areas of near-surface groundwater. Warming also could be influenced by changes in shallow groundwater flux rates and the level of the water table (Poole et al 2008). Hence, stream temperatures in some circumstances can become warmer at their point of origin (in spring, summer and fall) following upslope watershed logging. Other research has established the importance of streambed hyporheic flow exchange in determining surface water thermal regime (Poole and Berman 2001, Baxter and Hauer 2000, Poole et al. 2008). The hyporheic zone may include extensive areas of shallow subsurface flow within montane alluvial valleys. In summer this subsurface pool may be dominated by spring snowmelt or cool rain runoff that cools surface streams when it discharges in midsummer (Poole and Berman 2001, Wondzell 2011). The extent of hyporheic storage and exchange bears a somewhat uncertain relationship to surface landforms, and until the decades after FEMAT, land management agencies lacked both the methods and incentive to accurately map these critically important areas (Torgersen et al. 1999, Baxter and Hauer 2000, Ebersole et al. 2003, Poole et al. 2004, Poole et al. 2008, Torgersen et al. 2012). Sediment accumulation in streambeds, or loss of step pools and other structures contributing to channel complexity—often formed by stable large wood—is thought to reduce entrainment of surface flows into, hence flow exchange with, the hyporheic zone (Moore and Wondzell 2005, Poole et al. 2008).

Given these uncertainties, and the increased importance of such groundwater source areas under future climate changes, any management change that increases the areal extent of logging in watersheds poses a risk of contributing to undesired stream warming. Notably, winter and spring stream temperatures can be of comparable importance to summer temperatures in meeting the habitat needs of species. In particular, temperatures of seasonably intermittent streams (even though they may be non-fish-bearing in summer or support salmonids only in early summer) can be important for salmon and other species in winter and spring (Wigington et al. 2006), and are directly and indirectly influenced by riparian canopy shade, thermal insulation, and other forest conditions that mediate water temperature fluctuations.

Channel migration: Over time, stream channels migrate and even small streams have secondary channels that may flow only during the rainy season. However, existing side channels and backwaters provide important rearing and refuge habitat for salmonids, and they are commonly unmapped or mapped poorly. In addition, if riparian buffers are narrowed, some of these channels may migrate outside the narrowed buffer and be exposed to direct sunlight and substantially warmed. For instance, the sources of LWD are impaired during channel migration where outer zones have been harvested. Washington state and private forest practices rules have included criteria designed to identify and protect channel migration zones for many years (Brummer et al. 2006); in the ACS, explicit rules for their delineation are left to watershed analysis. The DEIS needs to make clear whether and how canopy shade and other riparian forest functions will be maintained for channel migration zones, hence for future possible channel locations, for all stream types

Riparian Large Tree and Wood Production

Large living and dead riparian trees provide numerous ecosystem goods and services that help create and sustain structurally complex, biologically diverse and productive riparian and aquatic ecosystems. Such functions include but are not limited to carbon storage, retention of nutrients

and sediment, creation of essential habitat for numerous aquatic and riparian-dependent species, regulation of temperature, and of increasing importance in a warming planet with increasing fire frequency, maintaining a moist, microclimate that can slow the movement of wildfires (see reviews in USDA and USDI 1994, Spies et al. 2013, Pollock and Beechie 2014, Frissell et al. 2014 and references cited therein). Large riparian trees that die and fall into and near streams, floodplains and wetlands regulate sediment and flow routing, influence stream channel complexity and stability, increase pool volume and area, and provide hydraulic refugia and cover for fish (Bisson et al. 1987, Gregory et al. 1987, Hicks et al. 1991, Ralph et al. 1994, Bilby and Bisson 1998). The loss of wood is a primary limiting factor for salmonid production in almost of watersheds west of the Cascade Mountains (ODFW 2005, Stout et al. 2005, ODFW and NMFS 2011, NMFS 2013) and is likely the cause for decline of numerous other aquatic, riparian-dependent and terrestrial species such that general declines in biological diversity in Pacific Northwest forests can largely be attributed to the loss of large wood (USDA and USDI 1994, Spies et al. 2013, Pollock and Beechie 2014).

The BLM proposes thinning in riparian reserves in all the four alternatives developed for the draft resource management plan (Figure 2). The conservation objectives given by BLM to conduct forest thinning in Riparian Reserves are to: (1) Create structurally complex forest habitat, to produce large wood for streams, or to reduce fire risk, with specific objectives varying by Alternative. All four Action Alternatives limit riparian thinning to stands less than 120 years old.

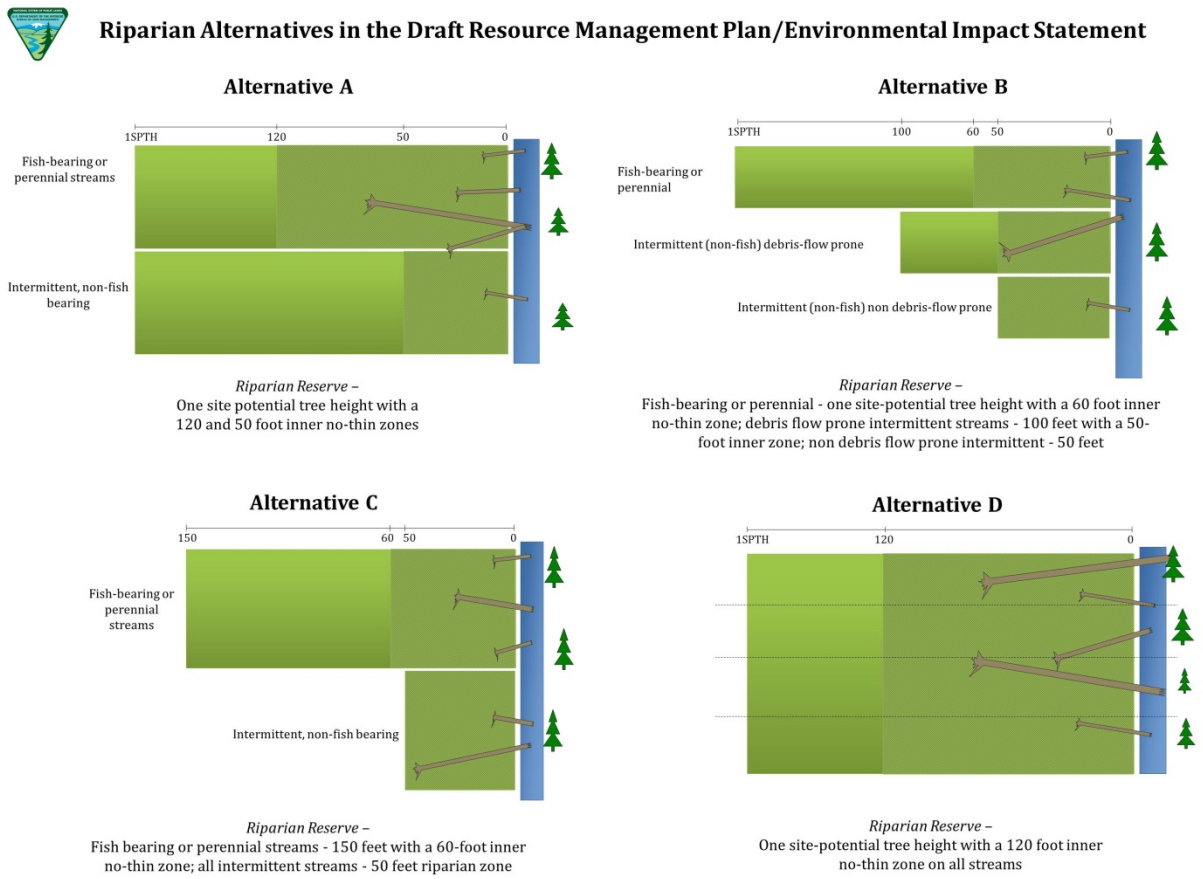


Figure 2. Draft alternatives for the DEIS. (Taken from BLM's riparian outreach meeting on 6/25/2015).

A recent review of the effects of forest thinning by a scientific panel for an interagency issue elevation (Spies et al. 2013) included the following conclusions that are relevant for the review of the four riparian thinning alternatives in the DEIS:

1. Thinning is most beneficial in dense young stands. The greatest ecological benefits of thinning come in dense plantations less than 80 years and especially less than 50 years old.
2. Higher densities stands are likely to see more benefit from thinning than lower density stands. In terms of dead wood production, stands at 450 trees per acre (TPA) will show more benefits to wood production from thinning than stands around 270 TPA.
3. Thinning generally produces fewer large dead trees. Thinning with removal of trees will produce fewer trees across a range of sizes over the life-time of the stand than those of non-thinned stands.
4. Thinning can accelerate large diameter trees. Trees with large diameter (greater than 40 inches) begin to appear in the thinned stand from 5 to 10 decades.

5. Ninety-five percent of near-stream wood inputs come from within 82 to 148 feet of a stream. Shorter distance comes from younger stands and longer distances come from older stands.
6. Thinning can increase the amount of pool forming wood when the thinned trees are smaller in diameter than the average diameter of pool-forming wood.

The BLM modeled the density of trees greater than 20-inch diameter breast height (DBH) (DEIS page 221) to assess delivery of large wood and small functional wood to streams. Only modeling or considering 20-inch dbh trees overlooks the importance of smaller wood in providing instream functions. For example, Beechie and Sibley (1997) determined that the minimum pool forming diameter of wood varies as a function of stream size and can be expressed by the equation:

Minimum pool forming wood diameter = 0.028*(Bankfull Width) + 0.0057,

and that pieces <6 inch diameter could form pools. By excluding all pieces of wood < 20 inches DBH from their analyses, the DEIS grossly underestimates the importance of wood to the formation of pool habitat, and by extension the importance of riparian forests with trees < 20 inches DBH to instream habitat.

The conclusion that only wood >20 inches diameter at breast height is 'functional' is contrary to published relationships between wood size and pool formation (Beechie and Sibley 1997, Bilby and Ward 1989), leading to the erroneous conclusion that significant timber harvest in riparian zones under thinning alternatives has little effect on habitat for anadromous fish. The model results from BLM show slight differences in potential wood recruitment between Alternatives A and D compared to Alternatives B and C, but the model run with all potential wood including trees <20 inches DBH showed that these differences would be much greater. Alternatives B and C will substantially decrease the total wood contribution to fish-bearing streams relative to the alternatives A and D, and the decreases will be long-term. This is because thinning will remove wood large enough to form pools from the riparian zone (if the term large wood is defined by its ability to form pools rather than the arbitrary value of >20 inches diameter) (Beechie et al. 2000).

Additionally, the DEIS emphasizes thinning in riparian areas for all stream sizes, but this will only benefit the habitat of anadromous fish under certain specific conditions (i.e., where there is sufficient instream wood already present to provide habitat functions during the lag between thinning a forest and recruitment of logs from the thinned forest to the stream, and where existing trees are too small to form pools when they fall into streams).

The majority of the wood recruited to a stream channel from adjacent riparian areas comes from within 30 meters (98 ft) of the channel (McDade et al. 1990, Van Sickle and Gregory 1990, Spies et al. 2013) (Figure 3).

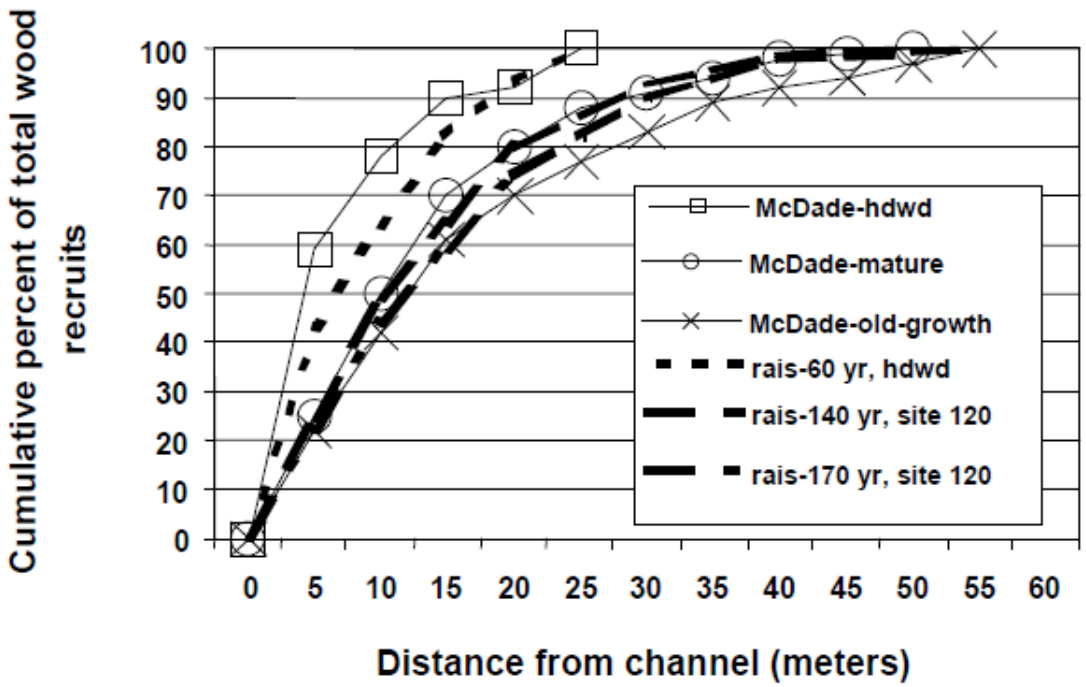


Figure 3. Comparison of predictions of total wood accumulation with distance from channel using the Organon forest growth model and RAIS instream wood recruitment model verse the observations of McDade et al (1990) for streams in the Cascade Mountains of Oregon and Washington. (Taken from Spies et al. 2013, page 18)

Alternative B (BLM's preferred action) and Alternative C in the DEIS BLM proposed thinning on fish-bearing or perennial streams with a 60-foot (18-meter) no-cut inner buffer. The outer zone (one site-potential tree height) would be thinned to no less than 80 trees per acre (TPA). An 18-meter buffer would include about 65 to 75% of the trees that could recruit to a stream (Figure 2). Under Alternatives A and D, the no-cut buffers of 120 ft (36 m) on perennial and fish-bearing streams would include about 90 to 95% of the trees that could recruit to a stream (Figure 2). The potential loss of 25 to 35% reduction of wood recruitment along fish-bearing and perennial streams under Alternatives B and C relative to a 5 to 10% reduction Alternatives A and D suggests that Alternative B and C pose a higher risk of not meeting the needs of ESA-listed species for habitat conservation and recovery. To further examine this issue, we consider the effects of outer zone management and modeling results below.

The reduction of number of stems in the outer zone of the Riparian Reserves also will limit potential wood recruitment to streams. Tree retention requirements for inner and outer zones of Riparian Reserves for Alternatives A, B, C, D are shown in Table 4.

Table 4. Tree retention requirements in Riparian Reserves for the various alternatives in the DEIS.

Tree Retention Requirements in Outer Zones of Riparian Reserves		
	Perennial and Fish-Bearing Streams	**Intermittent Streams – Outer Zone**
Alternative A	60 TPA	60 TPA
Alternative B	80 TPA	N/A
Alternative B Debris Flow		80 TPA out to 100 Feet
Alternative C	80 TPA	N/A
Alternative D	60 TPA	120 TPA

Alternative A maintains a 120-foot no-cut inner buffer for perennial and fish-bearing streams, and has a 50-foot no-cut buffer with retention of 60 TPA in the outer zone for intermittent streams. Viewed in isolation, the no-cut buffer and outer zone requirements for Alternative A will allow diminishment of wood recruitment to downstream areas inhabited by ESA-listed species. However, Alternative A allows only no-commercial removal of trees in the outer zone of Riparian Reserves. It is likely that the restriction of no commercial removal often will result in complete protection of all trees within one site potential tree height of all streams in Alternative A, due to the expense of thinning where trees cannot be sold. Alternative D has 120-foot no-cut inner buffer for all streams, with 60 TPA retention required in the outer zone and commercial tree removal allowed; therefore, it is likely to allow more removal than Alternative A in the outer zones. However, the 120-foot no-cut buffer will ensure a high amount of wood recruitment to all streams.

Alternatives B and C have 60-foot no-cut buffers and require retention of 80 TPA in the outer zone for perennial and fish-bearing streams, but of these two Alternatives, only Alternative B requires retention of any trees for intermittent streams, and only if those streams are prone to debris flows (80 TPA out to 100 ft from the stream). Under Alternative B, the 50-foot no-cut buffer is large enough to capture most or all of the area where standing trees are likely to be directly entrained by debris flows, but 80 TPA is a heavy thin that will limit the number of stems available for recruitment into the debris flow entrainment area. Also, wood recruitment on non-debris flow streams is also important to fish habitat since wood in these streams supports nutrient processing and sediment retention. Therefore, the Riparian Reserves proposed in Alternatives B and C for non-fish-bearing streams are likely to diminish wood recruitment, water quality and fish habitat quality in downstream areas. Particularly Under Alternative C, a lack of retention of riparian trees along intermittent streams means that wood recruitment, water quality and fish habitat quality in downstream areas likely will be significantly degraded.

NMFS 2010 previously modeled how thinning to 55 TPA outside of a range of no-cut buffers affects instream delivery of wood (Figure 4). Although leaving 60 TPA under Alternatives A and D in the outer zone would provide slightly more wood to the stream than the 55 TPA that we modeled, the exercise demonstrates that a 60-foot no-cut buffer with thinning in the rest of the riparian area out to one-site-potential tree height (as in alternatives A and D) will result in

significant diminishment of wood recruitment to streams relative to a 60-foot no-cut buffer (as in Alternatives B and C).

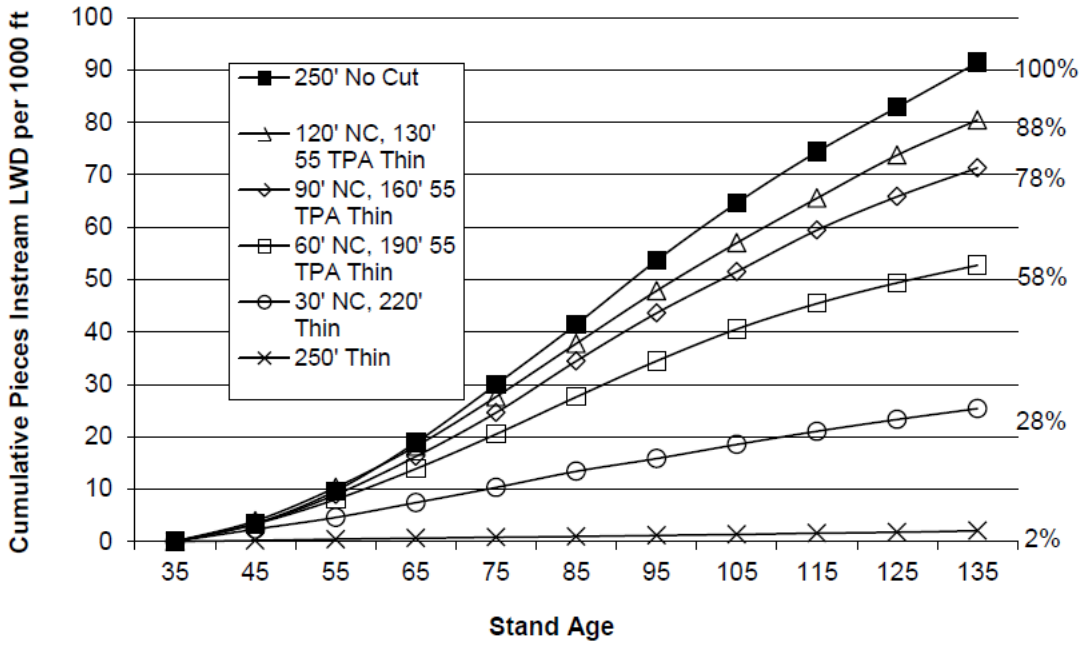


Figure 4. Comparison of the model effect of various no-cut buffer width adjacent to a 55 TPA thin on cumulative large wood inputs from the modeled stand to a stream 100 years post thinning for a young, managed Douglas-fir stand in the northwest Oregon. Percentages on the right of figure are relative to a 250 foot no cut buffer, a width equal to the site potential tree height for the area. Forest growth was simulated using Organon and wood inputs were simulated using Streamwood. Stand data used in the simulation were provided by the Siuslaw National Forest and are included in their East Alsea Landscape Management Plan. The pre- and post-thin tree size and density is typical of the stands in the project where thinning is proposed. (Figure from NMFS 2010).

The range of no-cut buffer widths and thinning regime examined are for comparative purposes only and is not meant to imply that they are all appropriate for meeting ACS objectives. Note also that the simulation does not predict the total amount of wood that will be in the stream, because it does not include existing instream wood loads, wood losses due to downstream transport, and wood delivery from upstream sources and from stands on the opposite bank. It simply predicts the *relative* effect of different management options on the delivery of instream wood from a stand.

Eleven years after thinning young conifer stands, the stands produced fewer dead trees than un-thinned control stands, although residual live trees grew faster than the control (Dodson et al. 2012). Dead wood production in thinned stands was less than in un-thinned strands, and dead

trees had to be artificially created to accelerate the development of snags to meet old growth objectives (Garman et al. 2003).

Overall, the information reviewed above indicates that of the Action Alternatives, Alternatives A and D are most likely to support the habitat needs and recovery of ESA-listed species, due to the combination larger no-cut buffers on fish-bearing and perennial streams and retention requirements in the outer zones of Riparian Reserves, relative to Alternatives B and C. Of the Action Alternatives, Alternative D has the most conservative riparian prescriptions for inner zones of Riparian Reserves, and Alternative A likely often will result in the most conservative prescriptions for inner and outer zones of Riparian Reserves because they prohibit commercial tree removal. The riparian prescriptions for Alternatives B and C do not protect enough trees in the inner and outer zones of Riparian Reserves adjacent to waters supporting ESA-listed species or in upstream waters that provide downstream ecological benefits to support the habitat needs and recovery of ESA-listed species.

The DEIS recognizes the numerous ecosystem functions that Riparian Reserves provide, but in all four Action Alternatives, proposes at a minimum, to reduce by half the width of all Riparian Reserves along fish-bearing streams, from two site potential tree heights (SPTH) to 1 SPTH, with no explanation as to why the rationale in the NWFP for creating 2 SPTH Riparian Reserves was no longer relevant. Within these reduced Reserves, the DEIS envisions allowing extensive "restoration" thinning in all the Action Alternatives, under a set of guidelines that are considerably less restrictive than the existing ACS Standards and Guidelines. These proposed new guidelines would allow 75-80% tree removal within portions of the Riparian Reserves, the exact amount varying by Alternative. We do note, under current NWFP implementation (No Action Alternative), extensive management is occurring within the Riparian Reserves.

With regards to riparian functions, interpretation of the effects analysis in the DEIS is hampered by contradictory statements and data, largely pertaining to the proposed level of timber harvest within the portions of the proposed Riparian Reserves. General descriptive sections of riparian management in the DEIS assert that tree removal in the outer Riparian Reserves will be in the upwards range of 75-80% removal (e.g. 60-80 TPA retention in stands that average 316 TPA- DEIS Figure 3-51) whereas the analytical section of the DEIS indicates about 62% average removal (i.e. 120 TPA retention/196 TPA removal- see DEIS Table C-12). The thinning also appears to "proportional", rather than "from below", meaning that most of the large diameter overstory trees will be removed along with the smaller understory trees, rather than removal of only the smaller trees, which is at variance with the goal of producing large diameter trees, and ultimately, large diameter wood to preserve and restore the natural ecosystem functions of wood upon which stream and river health depends. Further, in some instances the amount of tree removal is described in terms of canopy cover, whereas elsewhere it is described in terms of relative density. Thus it is unclear to what is likely to actually happen on the ground in Riparian Reserves if the RMP is implemented remains vague and very unclear in the DEIS.

The stated purpose for "restoration" thinning in Riparian Reserves is to create structurally complex forest habitat (Alternatives B and C), to produce large wood that is of a size sufficient to remain "stable" in streams (Alternatives A and D), to reduce fire risk (Alternative A) or the non-conservation goal of allowing for commercial harvest (Alternatives A, B C and D), but

specific criteria or determining when such "restoration" is needed are lacking. This creates substantial ambiguity and uncertainty as to the extent to which timber harvest in Riparian Reserves will occur. A common timber harvest goal in Riparian Reserves is "restoration" thinning for the purposes of creating a "complex forest habitat" but neither of these terms are defined anywhere in the document. In the scientific literature, complex forest habitat is generally synonymous with late-successional habitat and is characterized by abundant large live trees, large standing snags, large down wood on the forest floor and in streams, and a multi-layered canopy, while restoration thinning in the Pacific Northwest, is generally defined as silvicultural activities that accelerate the development of late-successional forest structure. Further, including commercial harvest as a goal of Riparian Reserve thinning creates an inherent conflict in thinning objectives. Commercial thinning generally removes larger trees because they have value as wood products, yet these trees, whether living or dead, are needed to accelerate the development of structurally complex forests and their associated aquatic systems. This also creates a contradictory incentive for restoration thinning, in that for a thinning operation to be commercially viable, then a high number of large trees need to be removed, which results in degradation of Reserve forests rather than restoration. We see no ecosystem benefit to the removal of large diameter wood from forests and could find no scientific literature demonstrating forest ecosystems and habitat for fish and wildlife benefits from the removal and continued depletion of large wood, while an abundance of literature exists discussing the benefits of large wood in forest ecosystems , and to its shortage in most previously logged forests (e.g. see FEMAT 1993, USDA and USDI 1994, Spies et al 2013, Frissell et al. 2014, Pollock and Beechie 2014, and references cited therein).

There are numerous contradictions and ambiguities in the RMP DEIS that make it challenging to follow the logic path whereby the conclusion was reached that there was minimal differences between Alternatives A through D relative to the No Action Alternative and to each other. Much of the confusion is generated in the Fisheries, Forest Management and Hydrology sections of the Affected Environment Chapter (RMP Vol 1, p. 217-320) that tries to reconcile riparian tree growth and wood production data from a 2013 growth and yield modeling simulation using the proprietary model "Woodstock" with a growth and yield and wood modeling effort from the 2008 Western Oregon Plan Revision (WOPR) FEIS.

The DEIS asserts (p. 225) that there will be no difference in large wood production among the Alternatives. This assertion is clearly in error, for reasons discussed below, but it is also problematic because the basis for this statement was based on the obscure and poorly described wood modeling exercise performed as part of the 2008 WOPR FEIS (which was subsequently withdrawn, in part due to extensive criticism as to its technical merits). We examined the 2008 analysis and found that there was little demonstrated rational basis for the conclusions reached, that only cursory data were presented and that the modeling program (OPTIONS) used to generate the data was itself obscure, not publically available and likely proprietary (a web search found no documentation of an OPTIONS model). Without access to the model data outputs, the model itself and an understanding of the assumptions built into the model, and with only a cursory summary of the findings, we were not able to understand the rational basis for the 2008 WOPR FEIS conclusions, and by extension, the 2015 DEIS conclusions that there is no difference between the Alternatives with regard to the production of instream large wood. Further we dispute such conclusions. There is no rational, scientific basis for the RMP's

conclusion that heavy thinning (i.e. 75-80% tree removal) within 50-60 feet of streams (e.g. see Alternatives B and C) will not reduce riparian and instream large wood abundances (see McDade et al. 1990, the USDA and USDI 1994, Spence et al 1996, and more recently, Spies et al. 2013, as well as Pollock et al. 2012 and Pollock and Beechie 2014).

The DEIS (p. 226) similarly concludes, this time using the 2013 "Woodstock" analysis, that there are minimal differences among the alternatives on the production of very large diameter (> 20-inch dbh) trees over time. Again, the basis for such conclusions was not presented, nor was the fact disclosed that BLM's conclusions run counter to published scientific findings as to the effects of thinning on the development of large diameter trees and large wood in western Oregon (see Pollock et al. 2012, Pollock and Beechie 2014). The data from these (peer-reviewed) publications suggests that over the long-term (e.g. 100 years), heavy thinning (e.g. reducing densities to 60-100 TPA) substantially reduces the abundance of such very large diameters trees, and that even more moderate thins to 160 TPA do not increase the number of large diameter trees. For large wood production, the same trends apply, but are even more amplified, with heavy thinning causing about a 75% reduction in large (> 20-inch dbh) wood production over the course of 100 years. Thus in the context of "restoration thinning" to restore "complex forest habitat" in Riparian Reserves, there is little evidence to suggest that thinning accelerates the development of structurally complex forest habitat, and ample evidence to suggest that heavy thinning substantially delays the development of complex forest habitat. The DEIS also indicates (p. 229) that the management direction for restoration thinning includes "ensuring that stands are able to provide stable wood to streams", but provides no indication as to what forest conditions would call for such thinning and what type of thinning would produce such stable wood. Further, the criteria for what constitutes "stable wood" is not explained, nor are any criteria for determining under what conditions and what level of thinning is likely to accelerate the development of "stable" wood. In particular, the DEIS produced no evidence to suggest that the intensity of thinning proposed will produce more "stable wood".

Recommendations:

Thinning goals need to be quantifiable and independently verifiable.

Thinning within Riparian Reserves should be limited to very specific conditions that can be identified a *priori*. Specific, quantitative criteria are needed for establishing when thinning is appropriate in Riparian Reserves and other reserve areas where conservation values are emphasized over timber harvest values. Consistent with the stated intent of both the NWFP and the DEIS, thinning should only occur when and where it can be specifically demonstrated to be likely to accelerate the rate of complex forest structure. Consistent with the NWFP, complex forest structure should continue to be defined as ongoing production of the structural characteristics of late-successional forest structure, primarily production of large diameter live trees, large diameter snags, large down wood on the (riparian) forest floor and large down wood in streams and other water bodies such as wetlands and lakes. In the context of complex forest development, large diameter is usually considered 50 cm (20-inch) dbh or greater. The use of large diameter live tree and dead wood production as metrics for forest complexity has an advantage over numerous other metrics in that they can easily be modeled with widely used, non-proprietary, publically available growth and yield models such as the Forest Vegetation Simulator from the U.S. Forest Service. The use of one of these metrics alone is not appropriate

because this can lead to misleading conclusions. For example a common mistake by forest restoration practitioners is to only consider the production of large diameter live trees and not the production of large diameter dead trees (the BLM DEIS is one such example). Such an omission can lead to the creation of structurally simple forests that have no large diameter snags or down wood and thus have limited ecological value. The use of other indicators of forest complexity, such as a multi-layered canopy, are also problematic because these are not easily modeled and relationships between "multi-layeredness" and the particular needs of species has not been well established. This is in marked contrast to the numerous and detailed associations that have been identified between many taxa and large dead wood, inclusive of species- specific size preferences, decay class preference, location and orientation within the forest ecosystem.

Thinning proponents also need to be cognizant of the fact that natural disturbances will naturally reduce tree densities regardless of any management actions and that variation in the processes and rates of natural tree death is important towards developing structurally complex and diverse forests (see Pollock and Beechie 2014). Assertions that thinning will improve habitat conditions should be viewed cautiously and with skepticism. The burden of proof should remain on thinning proponents that thinning is likely to accelerate attainment of conservation goals (Harmon et al. 1986, Hansen et al. 1991, Fetherston et al. 1995, Bull 2002).

Default Thinning Standards

If proponents of a "restoration" thinning project in Riparian Reserves do not have the time or inclination to use a forest growth model for a site-specific assessment of whether a proposed thin is likely to meet restoration standards and guidelines and achieve restoration objectives, then at a minimum, default standards need to be applied (though if there is no site-specific evaluation, then it is difficult to understand on what basis it was concluded that restoration thinning was needed). Based on the best available scientific information (see Pollock et al 2012, Pollock and Beechie 2014, Frissell et al. 2014), we suggest the following minimum default thinning standards:

- Maintain a minimum 120 ft liner no-thin buffer on perennial and fish-bearing streams, and at least 50 ft linear foot no-thin buffer on intermittent streams
- Retain a sufficient number or trees per acre in the outer zone of the Riparian Reserve to provide large wood recruitment, wind buffer to prevent inner buffer blow downs, and contribute to nutrient filtration
- Retain the largest trees (i.e. thin "from below")
- Leave all felled, girdled or tipped trees onsite as snags or down wood
- Do not remove shade tolerant species or species that are uncommon in the stand.
- A site visit is required by a forester and a written determination must be made, along with explanation, that thinning at the site is likely to accelerate attainment of Riparian Reserve conservation objectives.

Nutrient Loading

The DEIS does not disclosed impacts to surface waters and fish habitat on and downstream of BLM lands from nutrient leaching associated with BLM forest treatments, nor does the DEIS consider possible management practices to mitigate harm to downstream waters from nutrient loading. The role of forested riparian buffers in retaining nutrients mobilized by upslope forest disturbances, or delivered

to watersheds in precipitation and forest fertilization, is globally recognized, but not addressed in the DEIS. The DEIS needs to adequately address the environmental consequences of reducing stream riparian protections, in particular buffer widths, for water quality and fish habitat, particularly downstream of BLM forest lands. The DEIS needs to assess the environmental consequences of logging and vegetation removal within forested buffer zones along streams, where the nutrients mobilized by vegetation disturbance are released in close proximity to surface waters, and not exposed to the full filtration capacity of a streamside forest buffer. Fully accounting for nutrient retention functions of riparian forests was not done in FEMAT (1993) because the scientific information was not then available. More recent studies (e.g. see Nieber et al. 2011 and Sweeney and Newbold 2014, and references cited therein) suggest that unlogged forest buffers in excess of about 150 ft slope distance from surface waters and stream channels, including headwater channels with intermittent or ephemeral flow, are needed to mitigate nutrient leaching associated with upslope logging the maximum degree practicable (that is, with 90% of mobilized nutrients recaptured and retained in soils and vegetation). Greater than 150 ft is warranted where soils are coarse-textured, or skeletal and highly porous (common with steeper slopes and rocky talus).

Forested buffer zones are commonly prescribed to reduce nutrient delivery to streams in agricultural landscapes (Sweeney and Newbold 2014). Logging and fuels management treatments that disturb green vegetation generate increased nitrogen leaching from forest soils that enters streams and wetlands by both surface and subsurface flow paths (Wenger 1999, Gomi et al. 2002, Kubin 2006). Any ground-disturbing activity or condition (such as a road network) tends to mobilize phosphorus in association with soil erosion. Logging disturbs vegetation and soils over large areas, and scaled over large landscapes or river basins, initial disturbance of forested lands tends to generate larger net increases in nutrient loading than repeat disturbances of already-altered agricultural or urban lands (Wickham et al. 2008; note this observation is from a large population of monitoring sites and remains true even though agricultural lands are commonly more heavily fertilized than forest lands). Over time, nutrient loading to headwater streams transfers downstream, where nutrients accumulate in rivers, lakes, estuaries, and nearshore marine ecosystems (Freeman et al. 2007). For all of these reasons, forestry operations have been identified as a major contributor to nutrient loading, eutrophication, and associated impairment of water quality in Pacific Northwest lakes (Blair 1994, Dagget et al. 1996, Oregon DEQ 2007), rivers, and estuaries (Oregon DEQ 2007), most of which contain ESA-listed species.

Cumulative nutrient impairment of down-stream receiving waters can occur without violation of nutrient standards in headwater streams, simply as a consequence of sustained increases in loading from storm water runoff from forest roads and periodic logging. In effect, logging alters the entire regime of nutrient and sediment export, and nutrient losses to surface waters are endemic and widespread consequences of logging and other disturbance of forested watersheds.

The question of what role Riparian Reserves play in nutrient retention has received insufficient consideration in the Pacific Northwest. Research on the nutrient retention efficiency of various forested buffer widths from the Upper Midwest and other regions (Nieber et al. 2011, Sweeney and Newbold 2014) suggests that average phosphorus and nitrogen retention is around 80% for undisturbed buffer zones of 30 m (98 ft) wide. Extrapolation suggests that buffers of 45 m (150 ft) or greater might be necessary to attain 90-99 percent retention of nutrients mobilized by upslope disturbance. These distances are likely too small for Pacific Northwest forests, where slopes are steeper, soils tend to be

more porous, and macropores or channeled flow from uplands are more common than in the Midwest (all factors identified in Nieber et al. [2011] as reducing retention efficiency).

By virtue of their high density of surface channels across most mountainous landscapes, headwater streams with seasonal flow receive a large portion of the nutrients mobilized by up-slope disturbance (Gomi et al. 2002, Freeman et al. 2007). Therefore, full protection of wide Riparian Reserves along even the smallest stream channels (and surface-connected wetlands) is likely necessary for effective nutrient retention when surrounding uplands are disturbed. Channel network expansion from gully erosion (Reid et al. 2010) or roads (Wemple and Jones 2002) and channel simplification through loss of wood or sediment increases also reduces retention efficiency of nutrients, sediment, and organic matter in headwater systems. Moreover, thinning or other disturbance of vegetation or soils within the Riparian Reserve could short-circuit the benefit of riparian forest buffers, by creating a near-stream source of nutrients that is not fully mediated by the retention capacity of the default-width riparian zone.

Based on these considerations, the following management measures could partially mitigate nutrient loading from upslope forest practices: (1) Maintain a site-potential-tree height Riparian Reserve on all streams with sufficient number of trees per acre to contribute to nutrient filtration; (2) Maintain a minimum 120-foot linear no-thin buffer on perennial and fish-bearing streams, and 50-foot linear no-thin buffer on intermittent streams to mitigate the effects of up-slope logging on nutrient loading to both freshwater ecosystems and downstream marine environment; (3) Minimize livestock grazing in Riparian Reserves; (4) Engage in road network reduction and reconfiguration of remaining roads to reduce their hydrologic connectivity to surface waters to reduce downstream nutrient loading; and (5) Conduct assessments of the effects of management actions on nutrient loading to downstream receiving waters, including lakes, wetlands, reservoirs, mainstem rivers, estuaries, and the nearshore marine, should be included in environmental assessments, environmental impact statements, watershed analyses, and ESA consultations for aquatic species.

Sediment

Sediment is discussed in the Hydrology section (p. 286), and two key points were identified regarding the effects of timber harvest and roads on sediment delivery to streams and landslide risk. The identified key points are related to increases in peak flow between the alternatives. The stated key points are:

- Less than 1% of the Harvest Land Base would be have susceptibility to landsliding with the potential to deliver sediment to streams over time under any alternative. Alternative C would have the highest acreage of regeneration harvest in areas with susceptibility to landsliding, and Alternative D would have the lowest acreage.
- Under all alternatives, potential sediment delivery to streams from new road construction would constitute less than a 1% increase above current levels of fine sediment delivery from existing roads.

Effects from Roads and Timber Harvest Activities.

The DEIS states (p. 231) that "Under each of the alternatives, the estimated amount of additional sediment delivered to stream channels from roads in the first decade would be less than a 1% increase from the current amounts. At this level, there would be no detectable effect to fish or

stream channels from additional sediment. At the site scale, small accumulations of fine sediment could begin to fill pool-tails, or these fines become embedded in gravel substrates used for spawning. These sediments would be flushed during subsequent high flows and dispersed downstream where no discernable effect would be detected. Under all alternatives, the increase in fine sediment delivery to streams would not increase more than 1% above the current conditions, and would therefore be below the threshold for measurable effects on fish survival at this scale of analysis."

The DEIS further states (p. 231) that "As sediments are flushed from road surfaces, there could be some short-term increases in in-stream turbidity that would be dispersed within about 500 feet downstream from the source. This would result in a short-term and localized effect to fish that would elicit non-lethal stress or physical movement out of the stream reach until turbidity levels return to ambient levels."

The DEIS states (p. 230) that "Cederholm (1981) concluded that there was a two percent decrease of egg to emergence survival of salmonids for each one percent increase in fine sediment over natural levels at the watershed scale. Suttle et al. (2004) suggest there is no threshold below which fine sediment is harmless to fish, and the deposition of fine sediment in the stream channel (even at low concentrations) can decrease the growth of salmonids."

The DEIS states (p. 231) that "As sediments are flushed from road surfaces, there could be some short-term increases in in-stream turbidity that would be dispersed within about 500 feet downstream from the source. This would result in a short-term and localized effect to fish that would elicit non-lethal stress or physical movement out of the stream reach until turbidity levels return to ambient levels." There is a time lag of years to decades between a change in sediment supply and a change in morphology of a downstream reach (Kelsey 1982a, 1982b, Madej and Ozaki 1996, Beechie 2001, Beechie et al. 2005), and the amount of sediment determines channel and habitat response. The time lag is due to the time required for sediment to travel from its source to the reach of concern (Kelsey 1982a, 1982b). Once sediment enters a stream reach, its persistence is partly a function of the sediment transport capacity of the reach (Benda and Dunne 1997b), and both the timing and persistence of changes in the morphology of downstream reaches are related to the rate at which sediment moves through a channel network (Madej and Ozaki 1996). Therefore, timing of sediment input to a stream is not always equal to timing of impact on salmonid fish, and sediment input timing cannot be considered a reasonable criterion for concluding that erosion has little effect on these fish.

The majority of the suspended sediment analysis focuses on the effects from new road construction. Although the DEIS identifies the level of suspended sediment generated from existing roads, there is no analysis of effects to ESA-listed fish compared to natural, background levels of suspended sediment. We recommend that the FEIS include a modified sediment analysis that avoids the assumption that the timing of sediment delivery is more important than the volume, that considers effects of both the existing road network and proposed roads, and that includes consideration of long-term sediment routing and effects.

The DEIS does not analyze the effects of the RMA alternatives on suspended sediment. Living tree roots help stabilize soil. Timber felling kills the roots, which increases the probability of

slope failure (Swanston and Swanson 1976), particularly on steep slopes (i.e., >70% concave, >80% planar or convex slopes) (Robison et al. 1999). This also increases the potential of sediment delivery to the stream network. The occurrence probability is related to the harvest intensity, soil properties, geology, unit slope, and precipitation level. Depending on the prescription used, thinning and regeneration harvest will greatly reduce the number of living trees within the treated stands. As the roots of harvested trees die and decompose, their effectiveness in stabilizing soils will decrease over time. However, the remaining trees in the thinning units are likely to experience rapid growth from decreased competition and, as a result, increase their root mass and ability to stabilize soils in the treated stand.

Several studies document the ability of buffer strips to reduce erosion and sediment delivery. Vegetated buffer areas ranging in width from 40 to100 feet appear to prevent sediment from reaching streams (Corbett and Lynch 1985, Burroughs and King 1989, Gomi et al. 2005). Lakel et al. (2010) concluded that streamside management zones (buffers) between 25 and 100 feet were effective in trapping sediment before it could enter streams. Ground-based yarding can be accomplished with relatively little damage to the existing shrub and herbaceous ground cover, thus limiting the exposure of bare soil and maintaining important root structure that holds soil in place. Skyline or multi-spanning yarding systems reduce soil impacts because the logs are suspended above the ground throughout much or all of the yarding process. Helicopter yarding also reduce soil impacts because logs are fully suspended above the ground.

Because buffer widths needed for sediment filtration vary from 40 to 100 feet or more depending on slope, parent rock type, and other factors (Corbett and Lynch 1985, Burroughs and King 1989, Spence et al. 1996, Gomi et al. 2005), we predict that Alternative B will increase fine sediment yield to streams in the plan area. Alternative D would provide the largest no-harvest buffer widths of 120 feet on all streams, and would be effective in filtering sediment before reaching streams. Stream-side buffers are not effective in removing sediment carried in channelized flows (including intermittent streams) that originate outside of the buffer and continue through it (Belt et al. 1992). As stated above, suspended sediment could be routed to LFH and cause adverse effects. Sediment and its harms do not disappear because they are flushed downstream of BLM lands. They simply mix with sediments from other sources and are deposited in streambeds, and then are periodically mobilized in seasonal storms. Both while in streambeds, lakes and estuaries, and when suspended in subsequent secondary transport, sediments derived from BLM actions contribute to cumulative and sustained impairment of habitat critical for listed salmon and other fishes in river and lake basins of the region. The DEIS substantially misrepresents the physics of sediment routing and dispersion, hence fails to address its biological impact on salmon habitat and populations.

Landslide-Prone Areas

The DEIS (p. 306-307) states that "In this analysis, the BLM evaluated the risk of landslides by measuring relative landslide density using the geographic information system mass wasting hazard model within NetMap (Miller et al. 2003, Benda et al. 2007, and Miller and Burnett 2007). The NetMap model produces a naturally occurring landslide susceptibility from geologic and landform factors, but independent of vegetation factors. The modeling is based on landslide inventories from the Coast Range, Western Cascades, and Klamath Provinces. The model produces a spatially distributed estimate of landslide density by mathematically matching

observed landslide locations with topographic attributes including slope, convergence (bowl-shaped landforms), and watershed area, using a digital elevation model. BLM used the channelized mass wasting delivery model in NetMap to determine susceptible areas from the hill slope relative landslide density that could deliver to any stream channel."

The DEIS states (p. 307) that "The BLM added forecasts of future timber harvest under each alternative to the NetMap model outputs. In this analysis, the BLM assumed that regeneration harvest would increase the relative landslide density. In this analysis, the BLM assumed that commercial thinning would not affect landslide risk. The BLM did not account for the continuing effect of regeneration harvests that the BLM has conducted within the past ten years. As described in the Forest Management section in this chapter, the BLM has conducted only a very small acreage of regeneration harvests in the past ten years." Although regeneration harvest has a higher likelihood of increasing landslide frequency, thinning can also increase the frequency of landslides, depending on the harvest intensity. Reduced shear strength, associated with increased saturation, results from decreased tree canopy interception and reduced transpiration (Swanston 1973, Harr and McCorison 1979, Keim 2003, Johnson *et al*. 2007). We recommend that BLM analyzes the potential effects of thinning on landslide risk, particularly in areas that will receive high intensity thinning prescriptions (>80 trees per acre, posting thinning).

The DEIS states (p. 307-308) that "The BLM did not include potential increases to relative landslide risk from new road construction in this analysis. This is a change from the methodology described in the Planning Criteria (USDI BLM 2014, p. 81). Roads do have the potential to increase landslide risk (Miller and Burnett 2007, Weaver and Hagans 1996). However, under all alternatives, the BLM would construct few miles of new roads relative to the existing road system (see Trails and Travel Management in this chapter). Furthermore, most new roads under all alternatives would be built on stable areas such as ridge top locations, and would mostly be short spurs to the existing collector roads." The BMPs direct the BLM to locate temporary and permanent roads and landing on stable location, and to minimize construction on steep slopes, slide areas, and high landslide hazard locations. Since this is a BMP and not a Management Direction, there is an element of uncertainty related to the location of road construction. Based on this, we recommend that the FEIS should include a comprehensive analysis of landslide risk from new road construction.

Roads

The DEIS needs to better address road management issues as they relate to sediment production and discharge to streams. The DEIS should assess the extent to which drainage improvements are needed to reduce erosion and apply appropriate and effective BMPs to the existing cooperative BLM-private forest road system across western Oregon. The DEIS should explain plans to reduce watershed, water quality and fishery impacts from roads, inclusive of reduction of road extent through limits on new road construction, decommissioning of existing roads, and drainage improvements to "stormproof" roads that will remain on the landscape permanently. Monitoring results reporting the effects of NWFP implementation to date included a measure the level of fine sediments in stream habitat. Reductions in fine sediments that indicate habitat improvement in streams have only been observed in a handful of watersheds under extensive (National Forest) ownership where aggressive road removal and road network reductions, coupled with drainage upgrades of remaining roads were implemented early in the NW Forest

Plan period (Gallo et al. 2005, Reeves et al. 2006). The DEIS should (but does not adequately) address the longstanding need for systemic reforms of road systems and road management with the attendant need for erosion control and sediment reduction on BLM lands and the cooperative road network that extends to intermingled and adjacent private, tribal and other lands.

Roads are ecologically problematic in any environment because they affect biota, water quality, and a suite of biophysical processes through many physical, chemical, and biological pathways (Trombulak and Frissell 2000, Jones et al. 2000, Al-Chokhachy et al. 2010). The magnitude of existing road impacts on watersheds and streams on federal lands in the PNW may equal or exceed the effect of all other activities combined. Firman et al. (2011) reported that density of spawning coho salmon across coastal Oregon streams was negatively associated with road density. Kaufmann and Hughes (2006) found that road density in Coast Range streams was associated negatively with 25-50% of the variability in condition of aquatic vertebrate assemblages. More recently, Meredith et al. (2014) showed that the abundance of habitat-forming wood in Columbia Basin streams declined with proximity to roads, and the effect was roughly the same magnitude as that of natural climate and vegetation differences or long-term livestock grazing. The DEIS fails to address this body of science that identifies a wide range of mechanisms of road impact on streams and provide a comprehensive understanding of existing impaired conditions of road-affected ecosystems, and which implicates long-lasting and severe cumulative impact to fish and wildlife if extant sediment conditions are maintained or not improved.

Roads are necessary to support logging, mining, grazing, and motorized recreation, but the existing federal forest road system far outstrips the extent of those demands. The number and poor condition of USFS and BLM roads, the agencies' inability to prevent current roads from deteriorating and harming streams, and the pervasive effects of roads on the physical and biological environments were recognized in FEMAT (1993), but are minimized in this DEIS. In addition, forest roads have been the subject of high-profile national dialogue and policy reviews since the development of the NWFP (Gucinski et al. 2001, Pacific Rivers Council 2008). The ACS's primary means of protecting streams from roads and encouraging effective restoration are twofold: First, ACS objectives discouraged locating roads within Riparian Reserves, and second, roadless areas were to be maintained and overall road density reduced in Key Watersheds. For a small number of Key Watersheds where road network reduction has been pursued, agency monitoring efforts have reported improvements of certain instream habitat conditions, a response not detected elsewhere (Gallo et al. 2005, Reeves et al. 2006). Alternatives that reduce the size of Riparian Reserves could result in the construction of roads and landings in closer proximity to streams, increasing the likelihood of sediment delivery and alteration of near-stream hydrology. This needs to be disclosed and its potential effects analyzed and considered in the DEIS.

Reducing road density in critical watersheds, improving road drainage and stream crossings, and addressing other road-related factors that affect streams and aquatic biota pose central challenges to forest planning and management. The ACS and other operative policies have lacked sufficient means and impetus to accomplish this in the past 20 years. Based on the work of Frissell et al. (2014) and others, we identify six policy changes that could help achieve needed road reductions: (1) Prohibit the construction of new permanent and "temporary" roads that are hydrologically connected to streams or cross areas at high risk of landslides; (2) Allow no net increase in road density in any watershed. New "temporary" roads and landings should be considered to be roads and counted towards road density levels for at least several decades after decommissioning; (3) Establish unambiguous standards and metrics for net road density reduction, which include adequate accounting for landings and the impacts

of so-called “temporary” and decommissioned roads and landings; (4) Improve the system of classification (e.g., road type, use) and inventory (e.g., whether a road is active or decommissioned), and mapping (i.e., update maps to reflect current conditions) to ensure that agency bookkeeping of road miles corresponds with actual field conditions. This provision is necessary because at present many roads “disappear” when dropped from the inventory, but they in fact remain on the landscape causing watershed impacts. Also, lax road mapping programs and narrow definitions of what constitutes a road can significantly under represent the actual road densities; (5) Establish a target for road density in each watershed based on watershed conditions that will elicit a positive biological response. Require each proposed forestry and other development project to meet a target of incremental reduction of road density until road density in the affected watershed is lower than the target established on the basis of biological response; and (6) Roads for which there are not adequate funds for maintenance and upkeep should be decommissioned. These six actions should be considered by the BLM in the DEIS as steps that could effectively help to ensure that alternatives are sufficient to provide for protection and restoration of fish habitat and stream resources, and reasons provided if they are not adopted in the decision.

Hydrology

This section (p. 217) identified a key point related to increases in peak flow between the alternatives. The stated key point is:

- Less than 2 percent of the decision area would susceptible to peak flow increases over time under any alternative. The No Action alternative and Alternatives A and D would result in slight decreases and Alternatives B and C would result in slight increases in the number of subwatersheds susceptible to peak flow increases over time.

The DEIS states (p. 299) that “In this analysis, the BLM addressed effects on peak flow in the rain-on-snow hydroregion only, because there is little evidence that the forest harvest activities can elevate peak flows in the rain hydroregion or snow hydroregion (Grant *et al*. 2008).”

Peak flow analysis in the DEIS (p. 300) considers the largest spatial scale (sixth-field subwatersheds, 10,000-40,000 acres in size, that is generally acceptable to recognize any change in magnitude of peak flows, obscuring dispersed localized impacts that may be occurring at a finer scale.

The BLM compared the total open area for each rain-on-snow subwatershed for each alternative and time period to the rain-on-snow response curve from Grant *et al*. (2008) that were constructed from data at the site scale (few to hundreds of acres). Response curves for the rain-on-snow hydroregion developed by Grant *et al*. (2008) indicate that a mean of 19% of a watershed area with roads would need to be harvested to detect a change in peak flow response.

The DEIS states that there are 96 subwatersheds that are predominately rain-on-snow dominated (38 with BLM administered lands) in the planning area. The BLM determined that 7 of the 38 subwatersheds would be susceptible to detectable change in peak flow response.

The DEIS states (p. 302-303) that “Gravel bed channel types with a 1 to 2 percent gradient are most likely to be affected for any detected peak flow increase from forest management and roads

shown in Figure 3-94. Generally, these gravel bed stream types are a small proportion of total stream miles (less than 10%) in any subwatershed in the decision area. Most streams in the decision area are cascade or step-pool channel types. The predominance of cascade or step-pool channel types and the general absence of sand-bed channel types in the decision area reduces the likelihood that any peak flow increases would result in changes to channel structure in the decision area." The gross geomorphic effects of these dispersed increases in magnitude might be small due to resilience of channels (Grant *et al*. 2008); however, a variety of effects (fine sediment transport, reduced streambank stability, reduced large wood retention) may result in significant effects to ESA-listed fish habitat at the stream reach scale.

Base flow is another critical environmental attribute for salmonid fish (Moore and Wondzell 2005). Summer base flows can be reduced by post-logging vegetative regrowth (Hicks et al. 1991). Even a small proportional reduction in summer low stream flow in streams that are small, have naturally low base flow, or have seen recent influxes of bedload sediment, can lead to loss of flow connectivity, trapping of fish in isolated habitats, and inhibiting of migration, increased predation, and direct dewatering mortality, many cases can have severe consequences for fish and wildlife. The only place in the DEIS where base flow is mentioned is in relationship to stream temperature under the Climate Change section (p. 156-157). A more complete base flow analysis is needed in the DEIS that accounts for the direct, indirect (delayed or downstream) and cumulative effects of management activities (in particular the effects of timber harvest and roads) on water quantity. Thinning near streams may have proportionally larger consequences for summer flow depletion because rapidly re-growing vegetation after logging can most directly affect groundwater storage near the stream channel. This impact needs to be analyzed and addressed given the reduction of riparian reserve widths under the action alternatives, which would allow greatly increased vegetation removal within the zone where vegetation transpiration most directly affects subsurface water conditions are tied to surface streamflows.

Fire Management

The DEIS does not address the likely effects of fire management on riparian and aquatic habitat, particularly in regards to sediment production, riparian forest condition, effects of post-fire salvage logging and increased road construction. Below we review the current science on the effect of management actions related to fire as they pertain to the health of Riparian Reserves and associated aquatic habitat and provide suggestions for additional effects analysis that should be completed as part of the DEIS "Affected Environment and Environmental Consequences" analysis.

The DEIS should succinctly summarize its assumptions and conclusions about acres affected by fire in past decades, how much and which areas are expected to be affected by fire in the future, and how these together affect vegetation successional patterns and states, and potential timber production, particularly, from NMFS perspective, in regards to the effect on the condition of Riparian Reserves. It appears from information presented in Appendix C that these factors have been modeled by BLM, it does not appear they have been presented in a way that the analytic, model inputs, and model results can be reviewed and their veracity validated by independent readers or any third party. This is particular critical given climate change model predictions that are consistent with increased area affected by wildfire in the planning region (Mote et al. 2014, DellaSala et al. 2015, Littell et al. 2009a,b)

The DEIS should also specifically identify the protocol, and acres subject to salvage logging post-fire in the planning period under each alternative. This is not only because fire affects potential timber yield. But also because post-fire logging is known to pose extreme risk of harm to soils, watersheds, fish and wildlife habitat (Beschta et al. 2004, Karr et al. 2004), and for the projections of BLM's programmatic impact to these resources in the DEIS to be valid, the effects of potential post-fire salvage logging must be estimated and accounted for. Note that this does not require a site-specific analysis—only an appropriate scaling of area effects and associated magnitudes of impact of fire and post-fire salvage allowed under each alternative, analogous to the analyses done to estimate vegetation changes and timber volumes.

Just as one example of the importance of accounting for fire and post-fire conditions clearly, did the analysis of sediment generation from roads consider the consequences of fire on sedimentation and erosion, which typically greatly magnifies erosion and sediment delivery form roads in fire-affected watersheds? Given increased soil erosion proneness and soil moisture post-fire, did that analysis of road-related sediment (DEIS Chapter 3, p, 286, "Key Points" and subsequent section) account for the effects of salvage logging that can be reasonably certain to follow wildfires during the years of plan implementation? This is of particular concern because given how the DEIS proposes to alter the extant rules governing watersheds and riparian reserves under the NW Forest Plan Aquatic Conservation Strategy, it appears to set the stage for expedited post-fire logging, in particular in and near streamside zones that currently fall within default Riparian Reserve designations. If BLM did not account for sediment impacts due to post-fire salvage logging, then the BLM's conclusion (p. 286) that "under all alternatives, potential sediment delivery to streams from new road construction would constitute less than a one percent increase above current levels of fine sediment delivery from existing roads" is erroneous and misleading. Erosion and sediment delivery will likely increase in a near exponential fashion given an incremental increase in the density and spread of roads across the landscape, coupled with an observed and likely continued increase in climate variability that forces both the increased size and severity of fires and increased intensity of storms and flooding in post-fire wet seasons (Battin et al. 2007, Furniss et al. 2010). Alternatives that rely on expansion, rather than reduction, of the extant road network as is the directive under the NWFP and "No Action" alternative, will exacerbate this interaction, greatly magnifying erosion and sediment deposition in streams and its harmful consequences. More this projected magnification of erosion and sedimentation does not account for road maintenance shortfalls responsible for recurring significant erosion damage from the existing road network.

Appendix H reports on a Nature Conservancy region-wide modeling exercise that attempts to relate fuels and vegetation types to possible fire response. The resolution of the mapping and modeling precludes the identification of riparian areas in his analysis, yet we know that riparian areas have unique moisture, topographic, and vegetation, and fuels conditions that in many fire conditions result in different fire behavior and effects than occurs on adjacent uplands (Dwire and Kauffman 2003, Bêche et al. 2005, Pettit and Naiman 2007, Messier et al. 2012). Given the disproportionate importance of riparian vegetation and streamside slopes to watershed integrity, fish and wildlife habitat, and recovery of ESA listed and otherwise threatened salmonids, how does BLM relate the upland modeling results to riparian and stream conditions? How are the consequences of upland fuels and fire management for streams and watershed functions

accounted for in the DEIS? Because upland fire behavior is sometimes strongly influenced by adjacent upland fire behavior (Messier et al. 2012) but at other times (under different fire and weather conditions) strongly decoupled from adjacent uplands (Pettit and Naiman 2007), how can BLM explain differences among the alternatives in fuel treatment effect on watersheds, streams, and riparian-dependent fish and wildlife, and account for these in the comparison of alternatives and the evaluation of an eventual decision? Why can't fire regimes be restored in conservation lands through the restoration of prescribed fire in them, with minimal direct disturbance of soils, rather than through commercial logging and mechanized fuels treatments that actively disturb soils and promote erosion and sedimentation? At present these critical ecosystem relationships, effects, and consequences are not sufficiently analyzed or addressed in the DEIS. Therefore the very important causal linkages between upslope forest management practices justified by BLM on the basis of fire, and the condition of streams and other water bodies cannot be evaluated with information disclosed in the DEIS.

In addressing the consequences and effects of thinning, fuels management and fire dynamics on watershed functions and stream and wetland resources, it is critical that BLM account for the three factors: 1) direct adverse effects of fuels treatments on soils and water that create a compelling need to clearly evaluate tradeoffs between fuels treatment and fire effects; 2) differential response of riparian and upland forests to thinning treatments that affect the effective duration of fuel treatment effects, and 3) the small probability of co-occurrence of fire and the limited time window of possible effectiveness of fuels treatments after initial treatment (Rhodes and Baker 2008).

Current ACS language allows the agencies to "apply silvicultural practices for Riparian Reserves to control stocking, reestablish and manage stands, and acquire desired vegetation characteristics needed to attain…objectives." The agencies carry a project-specific burden to establish the need for thinning and that outcomes are ecologically restorative. Recently the USFS and BLM have pressed to increase in the average size of thinning projects apparently to reduce the number and cost of site-specific environmental analyses by broadening their scope. BLM in the DEIS apparently presumes (with little explicit rationale) extensive use of mechanical harvesting methods in conjunction with commercial timber sales to thin trees in riparian areas and other areas where conservation values are putatively given highest priority. In wetter forest types, the primary claim that thinning is restorative rests on the assumption that the growth rate and vigor of those trees left alive after thinning will likely improve, thereby hastening the future development of larger-sized trees. In drier forests, the primary rationale is that thinning is needed to promote a generalized reduction in fuel loads, thereby presumably reducing the risk, or severity, or rate of spread, of wildfire and that thinning can increase fire resistance of selected individual trees.

Regardless of silvicultural intent, mechanized treatments in Riparian Reserves can disturb vegetation and soils in close proximity to surface waters, where the risk of sediment delivery and other impacts is high (Rashin et al. 2006, Dwire et al. 2010). Logging activity that disturbs soils within riparian buffers can also reduce the buffer's effectiveness to retain sediment and nutrients delivered from upslope sources. Thinning or other disturbance of coniferous or deciduous trees and shrubs within riparian and wetland areas can cause decades of diminished summer low flows (after an initial few years during which low flows may increase), as a consequence of increased water demand by rapidly re-growing vegetation (Hicks et al. 1991, Moore and Wondzell 2005). In addition, thinning and yarding of logs from near-stream areas requires or encourages the construction of roads in close vicinity to streams, where the

likelihood of sediment delivery and other impact from roads is increased (Luce et al. 2001). Bryce et al. (2010) found that for sediment-sensitive aquatic vertebrates and macroinvertebrates, minimum-effect levels for percentage fines were 5% and 3%, respectively, meaning that even small increases in fines can adversely affect salmonids and their prey.

Mechanized thinning and fuels operations usually require higher-density road access to be feasibly implemented. Mechanical treatments for fuels reduction are particularly problematic because recurring entries at roughly 10-year intervals are necessary to sustain the desired conditions (Martinson and Omi 2013); such a forest management regime strongly favors, if not requires, a permanent, high-density road network. Many thinning projects involve road and landing construction and reconstruction, as well as elevated haul and other use of existing roads, all of which significantly contribute to watershed and aquatic degradation. Even if constructed roads and landings are deemed "temporary," their consequent impacts to watersheds and water bodies are long lasting or permanent. The hydrological and ecological disruptions of road systems and their use (Jones et al. 2000, Trombulak and Frissell 2000, Gucinski et al. 2001, Black et al. 2013), exacerbated by other effects of vehicle traffic, will likely outweigh any presumed restorative benefit to streams and wetlands accruing from thinning and fuels reduction. In recent years, the prospect of future thinning or fuels reduction projects often has become the basis for the USFS or BLM to avoid or delay decommissioning environmentally harmful roads, even when fiscal resources were available for the work. Prescribed fire without extensive mechanical treatment is of much less concern, as it is more feasible to apply in sparsely-roaded wildlands, entails far less soil disturbance, and if conducted in proper times and places it can more adequately mimic the ecological effects of natural wildfire.

Substantial questions remain about the putative ecological benefits of thinning and fuels reduction in the DEIS. This is critical because in its overall presentation of information in the DEIS, BLM suggests or implies that the desired ecological benefits outweigh the adverse environmental effects of logging and fuels treatments—in fact to the extent that detailed and substantive analysis of the tradeoffs is not warranted. Dispute among federal agencies about claimed ecological benefits of thinning in moister, Douglas-fir-dominated forest types (widespread in the Pacific Northwest) led to an interagency scientific review in 2012-2013 (Spies et al. 2013). That panel concluded that increased tree growth might be better obtained from thinning very young, high-density stands--which very seldom produces commercially saleable logs. They further concluded that thinning produces unusually low-stem-density forests and causes long-term depletion of snag and wood recruitment that is likely detrimental in most Riparian Reserves (Spies et al. 2013, and see Pollock et al. 2012, Pollock and Beechie 2014). Further depletion of wood recruitment in headwater streams can adversely affect the behavior of debris flows in Pacific Northwest watersheds in ways that further reduce residual wood debris and its important functions over extensive portions of streams and rivers (May and Gresswell 2002), where present-day wood abundance is decimated compared to historical conditions (Sedell et al. 1988, Pollock and Beechie 2014). Finally, recent reviews also raise compelling, unanswered questions about the effectiveness of thinning forests for attempted control of insect outbreaks (Black et al. 2013, Six et al. 2014).

The effect of thinning on fire behavior and effects within riparian areas has been little studied. For western North American forests in uplands the literature is replete with ambiguous and conflicting results regarding the effects of thinning and other mechanical fuels treatments on fire severity, rate of spread, and recurrence. Moreover, the probability of a fire burning through a treated stand within the limited time window of potential effectiveness of a fuels treatment has been shown to be very small

(Lydersen et al. 2014, Rhodes and Baker 2008). Any presumed benefit is even less persistent in Riparian Reserve areas where woody vegetation regrows rapidly after treatment, and where in moister forest types fire tends to recur with lower frequency. Equally important, we question whether managers should be striving to reduce fire severity in riparian areas as a rule, considering that high-severity fire plays a natural and historical role in shaping riparian and stream ecosystems (Gresswell 1999, Minshall 2003, Benda et al. 2003, Malison and Baxter 2010). Other natural forest disturbances, including windthrow, insect outbreaks, and landslides on forested slopes, appear to play a similarly important role in generating pulses of wood debris recruitment to streams, establishing a long-lasting source of ecological and habitat complexity.

Considering the newer scientific literature showing often difficult-to-justify costs and recognized inherent risks of adverse impact associated with such operations in sensitive areas, balanced against the uncertainty in intended benefits, consistent with Frissell et al. (2014), the following planning and policy measures should be considered as guidelines for determining the scope, scale, and location of thinning and fuels reduction actions entailed under the DEIS: (1) Thinning and fuels reduction by means of mechanized equipment or for commercial log removal purposes should be generally prohibited in Riparian Reserves and Key Watersheds; (2) Any thinning or fuels treatment that does occur as a restorative treatment in Riparian Reserves (e.g., to remove non-native tree species from a site) should retain all downed wood debris on the ground; and (3) Thinning projects that involve road and landing (including those deemed "temporary") construction and/or reconstruction of road segments that have undergone significant recovery through non-use should also be prohibited, due to their long term impacts on critical watershed elements and processes.

The BLM should account in this DEIS for recent and current scientific findings as cited above, and explain clearly their scientific and operational bases for thinning and fuels reduction programs, weighing costs against environmental consequences explicitly and with full disclosure of assumptions, risks, and uncertainties.

Management After Natural Disturbances

"Salvage" logging of dead or dying trees after fires, insect outbreaks, and other disturbances in Pacific Northwest forests continues to be undertaken in the region, and its effects are a recurring ecological concern (see review by Lindenmayer and Noss 2006). Soon after the NWFP was adopted in 1994, the scientific community began to weigh in on the inadvisability of post-disturbance logging. Scientists have catalogued the critical importance of large standing live trees, snags, and downed wood from fallen trees in the post-disturbance recovery of natural forests, including stand successional pathways, watershed processes, and wildlife and fish habitat (e.g., Gresswell 1999, Minshall 2003). Numerous scientific syntheses provided precautionary advice against post-fire logging on a wide range of causal grounds (e.g., Beschta et al. 2004, Karr et al. 2004, Lindenmayer et al. 2004, Lindenmayer and Noss 2006, Donato et al. 2006, Noss et al. 2006). More recent work has identified the potential importance of pulses in trophic energy following high-severity wildfire (Malison and Baxter 2010) for persistence and recovery of aquatic and riparian species. This new information builds on a more longstanding recognition that wildfire, that among its many other effects, plays an important long-term role in the generation of complex wood debris structures in streams (Minshall 2003). Other reviews focused on plant and landscape ecology broadly call into question the effectiveness of salvage logging insect-infested trees to control insect outbreaks (e.g., Black et al. 2013, Six et al. 2014). Similar concerns about the consequences of salvage logging curtailing natural ecosystem recovery processes pertain to

salvaging of stands affected by any natural mortality agent, such as windthrow or volcanism. Post-disturbance logging was not expressly ruled out in the NFP and ACS, and as a consequence, large post-fire salvage logging projects have been pursued by the BLM and USFS in some areas, including on occasion within Key Watersheds, Riparian Reserves, Late Successional Forest Reserves, and designated critical habitat of listed species (see DellaSala et al. 2014). Scientific consensus on the inadvisability of post-disturbance logging largely emerged in the years just after FEMAT, hence it is incumbent on BLM to strengthen aquatic protections to reflect such sources as the recommendations in Beschta et al. (2004), Karr et al. (2004), and Black et al. (2013). It is incumbent on BLM to explain its rationale if it chooses to not implement such recommendations to improve watershed, water, and fish resource protection from post-fire logging.

Climate Change

The DEIS does not adequately address the current scientific understanding of the breadth of ways that anticipated climate change will alter the way we expect ecosystems to respond to forest management actions, particularly in regards to aquatic resources (e.g., see Dale et al. 2001, Dalton et al. 2013). BLM should review the relevant literature and identify actions and policies that could explicitly reduce the risk of future resource harm, including to salmonid fishes and stream habitat, from anticipated climate change. In general for this region, hydrologic model predictions stepped-down from regional and global circulation models project increased stream and lake warming (varying magnitude across the seasons); more intense winter precipitation events, including flood and wind disturbance of riparian forests; earlier snow pack melting except for the highest elevation watersheds; and likely increased intensity and duration of droughts (Battin et al. 2007, Dalton et al. 2013). In very general terms, most climate change scenarios suggest larger and higher severity wildfires than seen in recent decades, and generally elevated evapotranspiration that could further reduce low summer streamflows. Luce and Holden (2009) documented a widespread pattern of declining summer streamflow over recent decades at gauging stations across the Pacific Northwest.

Climate changes will likely exacerbate existing (ongoing) trends in watershed degradation by affecting key processes or factors (stream thermal regimes, surface flows, groundwater and floodplain connectivity, landslide rates, fuels, fire, invasive species, and post disturbance human responses, to name but a few). Most climate change adaptation strategies call for strategic removal of non-climate stressors, because these will likely be more tractable or remediable than climate stressors (ISAB 2007, Furniss et al. 2010). No formal review of the ACS has apparently been conducted by the USFS or BLM to determine what, if any, science-based changes to the ACS best address future climate scenarios. However a review of the climate literature as it pertains to forest ecosystem management does not lend support to diminishing currently protective provisions of the ACS, such as the riparian reserve reductions contemplated in the DEIS.

At present, NWFP ACS stream and wetland protection requirements are integral to assuring streams, wetlands, and other water bodies have a high level of resilience in the face of increasing climate stress. Complex natural riparian vegetation communities and natural accumulations of large wood (resulting in concentrations of stored sediment) in and near floodplains are instrumental in creating and maintaining conditions that support hyporheic flow exchange. Wide Riparian Reserves provide not only shade, but essential protection and support for the natural processes that maintain and regenerate the suite of hydrologic and geomorphic elements that help buffer streams against climate forcing. Beyond current

practices, extensive forested north-facing slopes can moderate some climate influence on watersheds, and localized springs, and extensive shallow alluvial aquifers that store water seasonally can moderate summer streamflows and both summer and winter temperatures (Poole and Berman, 2001, Isaak et al. 2010, Wondzell 2011). BLM should identify and evaluate new planning elements and practices to recognize and protect vegetation, soils, and hydrologic functions of such areas from the adverse effects of roads and timber harvest, and mechanized fuels reduction projects.

Intact watersheds are often seen to be less vulnerable to storms, floods, droughts, wildfire, and other extreme events, and are expected to be more resilient to future climate change than highly altered watersheds. Streams and rivers affected by reduced alluvial groundwater storage and diminished hyporheic buffering, fragmentation and loss of biological habitat connectivity, and a less intact native biota, are likely to respond more quickly and with greater volatility to climate change, as are engineered systems such as roads and dams. Watershed resilience in the face of climate change can best be maintained by protecting and restoring the suite of natural processes and conditions that characterize natural forested riparian areas and floodplains (Seavy et al. 2009, Furniss et al. 2010). This is exactly what the ACS was originally designed to accomplish. Reducing riparian protections on the basis of narrowed, single-factor considerations such as proximate stream shade undermines the comprehensive protection of stream and riparian processes that the ACS was designed to maintain and restore. Finally, under changing climate, some management practices that seemed to produce desirable outcomes in the past may not do so in the future. For example, the putative effectiveness of forest thinning at altering fire behavior could become even more uncertain if weather extremes become more of a top-down driver of fire behavior (see Martinson and Omi 2013) in future climates (Dale et al. 2001, Westerling et al. 2006).

The following are some recommendations for management response to increase resilience of riparian and aquatic habitats and salmonids to foreseeable climate change threats (see Frissell et al. 2014); they are relevant to this DEIS and should be considered by BLM and the basis for their adoption or rejection should addressed in the document. (1) ACS protections for Riparian Reserves should be sustained and strengthened to better protect and restore natural ecosystem processes that confer resilience to climate change, as detailed in our other recommendations; (2) an interagency scientific conservation design effort is needed to expand and reconfigure some present Key Watersheds to ensure they better encompass specific areas that are likely to be topographic and hydrologic buffers to future climate change impacts; and (3) the direct and indirect effects of management actions on the integrity and capacity of stream and watershed ecosystems for resilience to climate change be analyzed in every environmental assessment, environmental impact statement, watershed analysis, and ESA consultation.

NMFS' Recommendations on RMA Alternative Selection

The Preferred Alternative (Alternative B) and Alternative C do not provide sufficient and protective riparian management strategies to ensure the conservation of our trust resources managed under the ESA and MSA; therefore, we cannot recommend either of these alternatives for further consideration.

Alternatives A and D have promise, but must be paired with sufficient landscape level strategies not yet incorporated in any of the alternatives presented in the DEIS. The lack of a landscape level conservation strategy, similar to key watersheds, hampers even the two most conservation

crafted action alternatives. Lessons from the NWFP ACS suggest strong standards and guidelines, paired with management direction focused on aquatic conservation, demonstrate the need to carry forth concepts of the NWFP ACS to ensure future conservation of our trust resources. Also, as in the NWFP ACS, some landscape level analyses combined with a strategic watershed restoration program are needed to maintain, protect, and recover ESA-listed species. The following is a summary of the major issues with the DEIS and with the preferred alternative that NMFS found in its review of the DEIS:

1. The riparian management scenarios proposed in the preferred alternative B and alternative C would not adequately maintain and restore all of the riparian and aquatic habitat conditions and processes that are critical to the conservation of anadromous fish (in particular, wood delivery to streams, maintenance of stream shade and water temperature, and filtering of nutrients and sediment before delivery to streams).
2. The action alternatives do not incorporate a watershed-scale analysis or analytic protocol that establishes a necessary context to ensure that the plan, and subsequent projects under the plan, are consistent with, and further the conservation of, ESA-listed anadromous fish nor our other trust resources managed under the MSA.

My staff, in conjunction with EPA, U.S. Fish and Wildlife Service, and BLM, have begun to formulate a framework that would help to address some of the issues that are listed above. We would like to work closely with your staff to incorporate this framework into the proposed action before release of the FEIS. The key elements are listed below:

1. Identification and differential management of a network of aquatic-emphasis watersheds for fish recovery, public water supply, and water quality.
2. Use of watershed-scale assessment and planning to guide land management actions.
3. Protection of current high-quality fish habitat, in addition to restoration of habitat with high intrinsic geomorphic potential.
4. Adjusted RMAs with more conservative management in aquatic-emphasis watersheds.
5. Standards and guidelines (management objectives and direction) that are mandatory, but are selected based on type of management action and site conditions.
6. Manage under the expectation climate change will alter the current environmental conditions in an adverse way for cold water species, including anadromous fish.

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From: fpaulete@blm.gov on behalf of RMPWO_Comments, BLM_OR <blm_or_rmpwo_comments@blm.gov>
Sent: Saturday, August 22, 2015 11:58 AM
To: RMP-Comments@heg-inc.com
Subject: Fwd: Oregon's Comments on the DEIS for the western Oregon RMP Revision
Attachments: Untitled attachment 00003.htm; BLM-WOPR_comments_8-20-2015.pdf; BLM 2015 _State comments FINAL.pdf; Untitled attachment 00006.htm

---------- Forwarded message ----------
From: **Paulete, Francisca** <fpaulete@blm.gov>
Date: Sat, Aug 22, 2015 at 9:15 AM
Subject: Fwd: Oregon's Comments on the DEIS for the western Oregon RMP Revision
To: BLM_OR RMPWO_Comments <blm_or_rmpwo_comments@blm.gov>

---------- Forwarded message ----------
From: **Mark Brown** <m4brown@blm.gov>
Date: Fri, Aug 21, 2015 at 6:56 PM
Subject: Fwd: Oregon's Comments on the DEIS for the western Oregon RMP Revision
To: Francisca Paulete <fpaulete@blm.gov>, Richard Hardt <rhardt@blm.gov>, Michael Allen <m1allen@blm.gov>

Sent from my iPhone

Begin forwarded message:

> **From:** Jerome Perez <jperez@blm.gov>
> **To:** Mark Brown <m4brown@blm.gov>
> **Subject: Fwd: Oregon's Comments on the DEIS for the western Oregon RMP Revision**
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> FYI - JP
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> Sent from my iPhone
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> Begin forwarded message:
>
> > **From:** WHITMAN Richard M * GOV <Richard.M.WHITMAN@oregon.gov>
> > **To:** "MHaske@blm.gov" <MHaske@blm.gov>, Jerome Perez <jperez@blm.gov>
> > **Cc:** DAVIS Chad * ODF <Chad.DAVIS@oregon.gov>, KRAHMER Rod W <Rod.W.Krahmer@state.or.us>
> > **Subject: Oregon's Comments on the DEIS for the western Oregon RMP Revision**

Thanks for extending the comment period. Here are Oregon's comments.

Richard Whitman

Governor Brown's Natural Resources Policy Director

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Governor Kate Brown

August 21, 2015

Bureau of Land Management
Draft EIS for Western Oregon
P.O. Box 2965
Portland, OR 97204

RE: State of Oregon Comments – BLM Western Oregon Plan Revision

Dear Western Oregon Plan Revision Team:

The State of Oregon submits the attached comments on the Bureau of Land Management (BLM) Draft Resource Management Plan (RMP)/Environmental Impact Statement (EIS). Covering approximately 2.5 million acres of public land in western Oregon, this planning effort is of significant importance on multiple levels for Oregon's forests, communities, and the economy and the environment. The importance of the O&C lands is magnified by the checkerboard nature of their geography, as well as the unique legislative history of management direction by Congress.

I submit these comments on behalf of the multiple state agencies that contributed to their formation. The State's comments do not support any of the current alternatives, and raise important concerns that need to be addressed in the Proposed RMP/Final EIS. Oregon would like to see the outcome of this forest planning process position local BLM managers, communities, and the broader public to optimize a wide array of social, economic, and environmental outcomes.

We submit the attached comments with that in mind and hope the BLM will take great care in assimilating the various comments it receives into a modified final alternative. We remain committed to our role as a Cooperating Agency and look forward to working with the BLM and the other Cooperating Agencies to move the planning effort from this draft stage into a Proposed RMP/Final EIS and Record of Decision.

Sincerely,

Richard Whitman
Natural Resource Policy Director for Oregon Governor Kate Brown

State of Oregon
Comments on the Bureau of Land Management
Draft Western Oregon Resource Management Plan/Environmental Impact Statement

The State of Oregon (State) is pleased to provide comments on the Bureau of Land Management (BLM) Draft Resource Management Plan (RMP) /Environmental Impact Statement (EIS) for western Oregon. The State's comments have been developed with significant contributions from the Oregon Department of Fish and Wildlife (ODFW), the Oregon Department of Forestry (ODF), and the Oregon Department of Environmental Quality (ODEQ). The Oregon Department of Transportation (ODOT) also provided input into the State's comments.

The State recognizes that BLM must balance a number of goals and objectives in developing a new RMP. The State recognizes that BLM's decision space is bounded by the legal requirements of federal laws, primarily the Oregon and California Lands Act (O&C Act), the Endangered Species Act (ESA), the Clean Water Act (CWA), and the Federal Land Policy and Management Act (FLPMA). FLPMA also calls for the RMP to be consistent with State laws, policies, and programs. Each of these constraints must be met by the new RMP. The new RMP should be based on an approach that solves for each of these four constraints, simultaneously, and not one that solves for one constraint first and then provides what is left for the other constraints. This is imperative even if that requires an extended timeframe to complete the planning process.

The State commends the BLM's Interdisciplinary Planning Team for the tremendous amount of work that has gone into the development of the Draft RMP/EIS. Overall, the State is generally supportive of the RMP revision, and believes it is possible to produce an RMP that meets all these requirements and creates outcomes that appropriately balance national, state, and local needs.

The State has the following vision for management of the BLMs forestlands in western Oregon:

The BLM has adequate human and financial resources to implement the land management plans for its forests in western Oregon. These forests provide a predictable level of economic benefits from timber management, and generate non-timber values that contribute to resilient local economies and communities. These forests also make important contributions to the conservation of native fish and wildlife species, and complement management strategies utilized on other public and private lands. The forests are managed to provide an appropriate contribution to improving water quality with the long-term objective of attaining water quality standards, recognizing the intermixture of BLM and other land ownerships. Implementation of the plan includes a robust monitoring effort and maintains management options for future Oregonians that optimize economic outputs, fish and wildlife habitat, and water quality into unknown climatic conditions and changing social needs.

To achieve this vision, the RMP must adhere to several co-equal principles. Each principle is listed below along with some context and specific recommendations relative to the content and information provided in the Draft RMP/EIS.

1. The RMP must provide predictability to deliver outcomes and be fully implemented through adequate human and financial resources.

From the State's perspective, the most critical element of the RMP is whether the BLM will be able to predictably implement the plan at the project level. Predictable implementation of the Final RMP will deliver on the economic, environmental, and social needs of Oregonians.

The Northwest Forest Plan (NWFP) and current RMPs have not been fully implemented, particularly the adaptive management strategies and timber harvest objectives. The BLM must have adequate resources to carry out management strategies in the RMP. Budget reductions and reallocations have led to major reductions in federal agency resources, which has influenced agency capacity and created concern over whether institutional capacities are adequate. The Draft RMP/EIS acknowledges that BLM's funding would have to increase to implement Alternatives A (1%), B (16%) and C (57%) over the current budget. It is imperative that the RMP be fully supported by adequate resources both within the BLM and cooperating federal agencies to ensure timely project-level consultation.

A robust and detailed monitoring strategy, supported by appropriate research, also must be implemented and directly connected to an adaptive management feedback loop as a key part of the RMP. The Draft RMP/ EIS states that under all action alternatives, the BLM would implement administrative actions, such as project implementation and plan effectiveness monitoring at approximately the same levels as during the past decade. The State notes however, that the purpose and need for this Draft RMP/EIS is different from that which was used to develop the 1995 RMP. This revision will decouple BLM's management from the objectives espoused in the NWFP, which was primarily intended to achieve range-wide conservation and timber harvest objectives. The 20-year monitoring effort of the NWFP has provided valuable insight to forest management at an ecologically significant scale relative to habitat, water quality and economic outcomes. The Draft RMP/EIS lacks sufficient detail as to how the independent actions of the BLM will tier to a regional framework for conservation of listed species. The Draft RMP/EIS also lacks sufficient detail as to how the BLM will monitor and evaluate economic, environmental, and social outcomes associated with this new independent framework for forest management on BLM-administered lands.

- ***The State recommends the RMP provide more detail and clarification of the monitoring and evaluation strategy the BLM will use to evaluate project implementation and plan effectiveness to achieve a regional framework for conservation of listed species, including connections to local collaborative, state or other partners.***

- ***The State recommends BLM document a commitment to adequately fund and implement the monitoring component in the RMP.***

- ***The State recommends the BLM develop an interagency monitoring/evaluation strategy. The monitoring effort should include a multi-scale approach analysis, integrate monitoring efforts of other federal and state agencies, and intentionally link to the continuing monitoring efforts of the NWFP.***

2. The RMP must make significant contributions to local, regional and statewide economic resilience, particularly in the eighteen O&C Counties.

Many of Oregon's rural economies are dependent upon values that our public and private forests provide. Specifically, the O&C Act directed a unique financial relationship between the O&C lands and eighteen Oregon counties. Local government's fiscal structure is built around the revenue generated from the management of the O&C lands. Timber harvest revenues from O&C lands are essential to the financial stability of the O&C Counties. Given the management constraints on these lands, federal, state and local resources will be needed in addition to timber revenues to maintain economic and social stability in these counties. While many of Oregon's local economies are diversifying, forest products remain a critical asset to support local employment, both directly and indirectly.

The current density of infrastructure and forest contractor base affects the local and regional nature of timber outputs. In particular, a few counties in southwest Oregon are heavily dependent upon the economic contribution of the forest products sector and, given forest ownership, particular mills are highly dependent on timber supply from federal forests. The RMP should recognize this reality. Oregon's wood products infrastructure is diverse and utilizes a wide range of timber sizes. Some management focus on growing large wood – achieved through longer rotations – would help achieve an adequate log size mix and likely significantly increase timber revenues important for the eighteen O&C Counties.

- ***The State supports silvicultural strategies that emphasize active forest management and optimize timber value in order to fulfill the BLM's fiscal responsibility to the O&C Counties.***
- ***The State recommends the RMP include some portion of the landscape be managed on longer rotations in order to produce a more diverse log supply and optimize value obtained from timber sales.***
- ***The State requests more specific details related to timber size and grade in order to assess the Alternatives relative to the existing infrastructure and local economies in the RMP.***

Recreation and tourism are a growing sector of Oregon's economy. Non–timber resources and values – including recreation, hunting and fishing – contribute to economic stability at the local, regional and statewide levels and are expected to increase over time. In particular, a report[1] by ODFW and Travel Oregon describes participation and related expenditures made throughout Oregon and the state's travel regions and counties.

- ***The State recommends that economic contributions and values of fishing, hunting, and wildlife viewing be included as economic outputs.***

3. The RMP must contribute to fish and wildlife conservation objectives in a mixed ownership landscape, comply with the Endangered Species Act, and aid in the recovery of listed species.

[1] http://www.dfw.state.or.us/agency/docs/Report_5_6_09Final%20(2).pdf

To adequately address large landscape conservation, management objectives of public and private owners must leverage individual outputs to be most effective and durable. The non-contiguous pattern of BLM-administered ownership (i.e., checkerboard) in western Oregon presents a significant challenge for meeting multiple resource objectives. With the creation of the Oregon Conservation Strategy[2] (OCS) in 2006, the State has its first overarching blueprint for conserving fish, wildlife, and their habitats. The OCS provides an excellent opportunity for aligning the RMP with eco-regional and statewide conservation goals. The State believes the OCS should be used to help the BLM make strategic decisions on conservation issues and for guidance on the types of actions most likely to benefit Oregon's priority species and habitats. The goals and objectives of the OCS cannot be fully accomplished without the cooperation of the public land management agencies, such as the BLM.

- ***The State recommends the BLM use the Oregon Conservation Strategy as part of its planning effort, and requests the BLM address in the RMP how it will address these statewide key conservation issues on BLM-administered lands consistent with the goals and actions described in the OCS.***

Under the current management structure across the range of the northern spotted owl (NSO), different forest ownerships have played different roles in providing a wide range of plant and animal habitat conditions. Under the current scenario, most of the forests managed specifically for species conservation are in reserves on federal forestlands (BLM and US Forest Service). While the State understands the BLM's efforts to depart from the NWFP with this Draft RMP/EIS, the State notes that reduced conservation outcomes associated with older forests on federal forestlands, including BLM-administered forestlands, could have implications for management on USFS lands as well as both state-managed and private forestlands.

The northern spotted owl (NSO) is under severe biological stress in much of western Oregon. Large, contiguous blocks of late-successional forest have been an element of NSO conservation strategies for over two decades and is identified as a key component in the NSO recovery plan (USFWS 2011). The State believes that NSO habitat and barred owls must both be adequately addressed to achieve recovery.

The Alternatives in the Draft RMP/EIS present an "*all or nothing approach*" to known and existing NSO sites within the Harvest Land Base (HLB). Alternatives A, B and C do not include any site specific surveys for known or historic sites. Sub-Alternative B includes full protection for all known or historic sites at the scale of an NSO home range. Alternative D is similar and allows some harvesting within the home range utilizing criteria to maintain habitat conditions.

The State has an interest in maintaining all known NSO sites. Under the Oregon Forest Practices Act (OFPA), private forest owners are required to document the location of a 70-acre core habitat area when planning timber harvesting operations near a known NSO nest site. ODF has experienced instances where the known site is located on BLM (or other public lands) and the 70-acre core area would be located partially on private or other public land. In these cases, ODF advises the private forest owner to not harvest within portions of the NSO core area on their ownership. Under Alternatives A, B, and C, we presume the known or historic NSO sites within the HLB would be lost and no new sites would be detected if surveys are not conducted prior to regeneration harvests. This could have

[2] http://www.dfw.state.or.us/conservationstrategy/

implications to conservation objectives already adopted in core habitat areas that include both public and private land.

- ***The State recognizes that Late-Successional Reserve designs of all alternatives in the Draft RMP/EIS make similar contributions to large habitat blocks needed for NSO, and Alternative D best supports dispersal capability between Oregon Coast and Cascade Ranges.***

- ***The State supports BLM participation in barred owl management in the RMP.***

- ***The State recommends a requirement for surveys for NSO in the HLB, and that protections, at a minimum, for NSO known and historic sites within the HLB, meet OFPA standards in the RMP.***

- ***The State recommends the analysis of using similar management guidelines in the OFPA for known NSO nest sites within the HLB to determine the tradeoff between nest sites lost and timber output in the RMP.***

Federal lands, including BLM-administered lands, play a key role in the conservation and recovery of marbled murrelets (MAMU). All action alternatives in the Draft RMP/EIS result in an increase in the amount of MAMU habitat. Since population trends of the MAMU are not forecast in the Draft RMP/EIS, the loss of occupied sites through the lack of surveys in the HLB may negatively affect species viability. It is reasonable to expect that some of that habitat for some of these sites would also intersect with adjoining private forests. Under the OFPA, private landowners are required to submit a written plan when harvesting timber near a known MAMU nest site.

- ***The State recommends a requirement for surveys for MAMU in Zone 1 (0-35 miles from the coast) prior to management actions and protection of habitat around newly discovered occupied sites in the HLB in the RMP.***

- ***The State recommends the BLM analyze the number of known or historic MAMU sites within 0.25 miles of adjoining private lands to determine the potential impact to MAMU habitat sites that span property boundaries and the potential impact to timber volume output.***

Structural legacies have become an increasingly important conservation component in managed forests. The retention of green trees, snags, and down wood is a fundamental component of providing for wildlife and ecological diversity. Knowledge and awareness of the ecological functions associated with structural legacies in providing wildlife habitat and in basic ecological processes has dramatically increased over the last several decades (Neitro *et al* 1985, Bartels *et al* 1985, Hunter 1990, Rose *et al* 2001, Hagar 2007, McComb 2008, Marcot *et al* 2010). Incorporation of structural legacies in young stands provides those elements needed to more quickly accelerate the development of habitat for species associated with late-successional forest. Recent research suggests that complex early-seral communities have importance on par with complex late-seral forests in providing habitat for conservation-listed species (Swanson *et al* 2011, 2014).

The OFPA and management direction for State Forests include retention standards for green trees and downed logs for regeneration harvests. Alternatives A and C include a High Intensity Timber Area (HITA) within the Harvest Land Base (HLB) and does not require any retention of green trees, snags or downed logs. The types of regeneration harvests approximated by the HITA would be limited to less

than 120 acres under the OFPA. The Draft EIS does not address size of regeneration harvests under any Alternative.

- ***The State supports the green tree, snag, and down wood retention strategies specified in the Draft RMP/EIS for Moderate Intensity Timber Area (MITA), Low Intensity Timber Area (LITA), Uneven-aged Timber Area (UTA), and Owl Habitat Timber Area (OHTA).***

- ***The State recommends that the High Intensity Timber Area (HITA) include, at a minimum, a similar level of green tree, snag and downed log retention as currently prescribed by the OFPA to include conservation benefits within regeneration harvest units. The State also requests that management direction include an upper-size limit to regeneration harvests if HITA is included in the RMP.***

4. The RMP must comply with the Clean Water Act, including riparian management strategies to protect and restore freshwater habitat for ESA-listed and other native fish species and ensure source water protection.

A significant deviation from the current RMP is the departure from the Aquatic Conservation Strategy (ACS) in the NWFP, which is comprised of four components designed to operate together to maintain and restore the productivity and resiliency of riparian and aquatic ecosystems. The Draft RMP/EIS only carries forward the Riparian Reserves concept from the ACS. Designation of Key Watersheds remains an important mechanism for watershed level assessment and management with the purpose of protecting and restoring key stronghold for native salmonids. The Draft RMP/EIS lacks discussion on how the goals of the Key Watershed designation in the ACS will be met. It appears that Alternative A or D would best accomplish this, but assessment of this by the BLM should be included in the RMP.

- ***The State recommends the RMP identify priority watersheds and explore different management strategies in these priority areas to carry forward similar objectives achieved in the ACS. Examples of prioritization approaches could include Crucial Aquatic Habitat Areas[3], salmon strongholds, high intrinsic potential, and/or cold water refugia.***

The State appreciates the attention paid to protecting the valuable array of aquatic resources in the Draft RMP/EIS. Tree retention along streams in the Riparian Reserves for all action alternatives would generally exceed what is currently required under the OFPA, and is similar to riparian management areas on Oregon's State Forests. The State supports alternatives that have comprehensive outcomes for protecting and restoring riparian processes and functions. As discussed in the Draft RMP/ EIS, Alternatives B & C have substantial uncertainty for meeting temperature standards and Total Maximum Daily Load (TMDL) allocations and for recruiting large wood at rates desired for improving aquatic habitat, particularly along the Oregon coast.

The State requests that the management practices in the RMP align with the Statewide Riparian Management Policy that "sustain streamside and wetland riparian functions that support desirable water quality, native fish populations, and wildlife across the state." Those practices may include recruitment of large woody debris to the stream channel, maintaining shade, capturing fine sediment, thermal heterogeneity, and physical habitat complexity and connectivity.

[3] Identified in ODFWs COMPASS map and database.

The State supports alternatives that use active vegetation management to achieve desired conditions, as long as associated risks are managed through standards and best management practices. Alternatives B, C, and D allow commercial removal of timber for ecological reasons in the outer zone riparian reserves. This would increase timber supply while being consistent with management goals of riparian reserves.

- ***The State suggests that Alternatives A and D provide the most certainty for reducing the risk of adverse effects to listed fish and water quality. Alternative A allows for more ecologically appropriate thinning on non-fish streams than Alternative D and thus could facilitate additional conservation opportunities. Alternative D provides more riparian protection in small non-fish streams than Alternative A. Alternative D has the additional assurance of maintaining ecological processes such as sediment routing and habitat creation.***

- ***The State supports 70% as a threshold for defining steep slopes for protection, with the exception of convergent topography on erodible geology. In these locations, a threshold of 65% is needed to be consistent with the OFPA regarding high landslide hazard.***

Alternatives that reduce the impacts of road networks (e.g. fish passage and fine sediment delivery), shade removal, livestock grazing, and mineral extraction in Riparian Reserves are consistent with protecting investments in riparian and instream restoration. Alternatives that accelerate the trajectory to natural riparian function and rectifying legacy effects would decrease short-term vulnerability and provide the best foundation for long-term and landscape scale watershed resilience.

Locations and conditions of roads are significant determinants of water quality and aquatic habitat. The maintenance backlog on roads is projected to increase under all Alternatives. The Draft RMP/EIS recognizes that the BLM-administered lands contain 5,096 miles of road within 200 feet of streams contributing 60,265 tons/year and a projected rate of 51,988 tons/year by 2023. The BLM has a road BMPs manual which ODEQ has found generally adequate. In addition to using these practices, water quality is best protected by minimizing new road construction, decommissioning roads in problem locations, and dealing with the maintenance backlog.

- ***The State recommends addressing water quality impacts of the existing road system; reducing the maintenance backlog over time should be the highest priority for the road system. Planning for new road construction should allow for removal of problematic road segments whenever possible.***

- ***The State recommends the RMP include more detail on the sources of sedimentation delivered to stream networks, including estimates of minor culvert conditions and watershed-specific information.***

The RMP/ Final EIS should better define how the land allocations would differentially contribute to threatened and endangered fish species delisting goals, as well as improving the status of species on the ODFW State Sensitive species list. The State has adopted several fish conservation plans that are similar to federal recovery plans, and call for improvements in aquatic and riparian habitat conditions and functions. Federal land management plans such as the BLM's RMP are foundational to achieving federal and state fish conservation goals, in part because they encompass a significant portion of the stream network.

- ***The State recommends the RMP integrate and address protection and restoration recovery priorities/actions included in Federal Recovery Plans and ODFW fish conservation and management plans or related documents to guide landscape-level, project-level, and site-specific actions. A partial list of fish conservation plans and conservation initiatives that are relevant to Decision Area land allocations and actions are listed at the end of this document. In the absence of adopted plans, the State recommends the BLM rely on their own watershed analyses and watershed plans that identify priority fish and habitat actions.***

5. The RMP should look to integrate timber harvest objectives with conservation objectives, particularly for complex early seral habitat.

The O&C Act state that O&C lands "Shall be managed….for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the purposes of sustained yield for the purpose of providing a permanent source of timber supply…" Regeneration harvests are one of a suite of silvicultural approaches to achieve such a timber production objective efficiently.

- ***The State supports the use of regeneration harvests described in the action Alternatives and believes it is a responsible management action to meet the Purpose & Need as described in the Draft RMP/EIS under the Moderate Intensity Timber Areas (MITA) and Low Intensity Timber Areas (LITA).***

The Draft EIS acknowledges that the inability of the 1995 RMP to deliver reliable timber outputs is a primary driver for this revision process. Predictable timber output from these lands is a critical need for the State. All Action Alternatives would result in an increase of timber output relative to recent implementation of the 1995 RMP and three action Alternatives (A, B, and D) would yield less timber volume than the No Action Alternative. Given the expected lifespan of a new RMP (15-20 years), Total Volume are most critical to evaluate timber outputs in the RMP.

Components of the various action Alternatives offer some potential to increase timber outputs over the likely lifespan of the Final RMP, including sustained yield management within a portion of reserved allocations. Under Alternatives A, B, and C, Late Successional Reserves do not include any timber management objective. The Final Critical Habitat Plan[4] for the NSO acknowledged that active management could be compatible inside reserved habitat areas, particularly in dry forest types. If such sustainable management actions are included in the RMP, the resulting timber output should be tallied as part of the Annual Sale Quantity (ASQ). Additionally, the BLM could accelerate fire resiliency treatments in dry forests in response to the need to restore these forests. This restorative work is necessary so that an acceleration would result in an up-front pulse of timber volume and thus be above a non-declining even flow.

- ***The State recommends the RMP consider the use of management direction included in the Uneven Aged Timber Areas (UTA) and the Owl Habitat Timber Areas (OHTA) in portions of Late Successional Reserves (LSR) and evaluate the effects to habitat and timber outputs. The RMP should develop and identify objective criteria for when either silvicultural approach would be applied in LSRs.***

[4] http://www.gpo.gov/fdsys/pkg/FR-2012-12-04/pdf/2012-28714.pdf

- ***The State recommends the RMP accelerate resilience treatments in the dry and very dry forest types.***

The early-seral forest habitat needs for black-tailed deer and Roosevelt elk, as well as other native wildlife species merge well with the use of these types of regeneration harvests. Early-seral forest communities provide habitat and forage essential for deer, elk, and many other wildlife species and are a crucial source of biological legacies and structural diversity for later successional stages. The recent implementation realities of the NWFP coupled with fire exclusion and suppression has reduced the early seral habitat on federal forestlands. Concurrently, the black-tailed deer population is declining in western Oregon, and elk populations are also below management objectives in the majority of ODFW Wildlife Management Units (WMU) in the west Cascades, Siskiyou Mountains, and Coast Range. ODFW's ability to achieve big game Management Objectives is largely determined by the extent that habitat can be secured and enhanced on federal lands, including BLM-administered lands. The ODFW's Black-tailed Deer Management Plan[5] and Elk Management Plan[6] identify important management policies and strategies, and should be used to help guide management actions on BLM-administered lands. In addition, the elk nutrition and elk habitat use models[7] can help managers evaluate the nutritional and habitat conditions of landscapes/alternatives and how likely elk are to use these landscapes. The models also project the effects of land management activities, like road closures and thinning, on elk. The State believes these models represent "best available science" and have the potential to better inform the effects analysis in the Final EIS. Roads and off-road recreational activities, such as OHV use, can also have significant direct and indirect effects on deer and elk habitat use.

- ***The State believes the planned timber harvest under the three action alternatives A, B, and C provides opportunity to increase early-seral communities and forage for deer and elk. The moderate intensity and low intensity thinning proposed in Alternative B will provide more complex early-seral habitat than the current program of thin-only.***

- ***The State recommends the RMP/EIS include land allocations with specific Management Area designations for important big game habitats to ensure that specific management actions (e.g., road closures, road density limitations, cover, and forage) will be implemented to improve/enhance habitats across the landscape. The State also recommends these Big Game Management Areas be identified in collaboration with ODFW.***

Out of the approximately 2.5 million acres of BLM-administered lands in the planning area, there are 384,273 acres of Public Domain (PD) lands. These PD lands exist both in western Oregon and in the Klamath District. About half of those public domain lands are small parcels that are widely scattered and intermingled within the O&C lands. The State notes that PD parcels are to be managed in accordance with the 1975 Public Land Order No. 5490, which authorizes management of PD lands for multiple-use management. The State is pleased to see a management objective for Eastside Management Areas in the Draft EIS (page 37) that states, "Meet ODFW management goals for wildlife on public domain lands." Given the legal management direction through the Public Land Order:

[5] http://www.dfw.state.or.us/wildlife/docs/Oregon_BlackTailed_Deer_Management_Plan.pdf
[6] http://www.dfw.state.or.us/wildlife/management_plans/docs/ElkPlanfinal.pdf
[7] http://www.fs.fed.us/pnw/research/elk/westside/index.shtml

- ***The State requests that all public domain lands in the planning area – both eastside and westside – be managed under a land use allocation with a stated objective to "meet ODFW management goals for fish and wildlife."***

The Draft RMP/EIS does not address public safety and conservation concerns impacted by shallow, rapidly moving landslides, and also does not address best management practices for future harvest to reduce the potential for landslides in proximity to the State's highway system. As noted above, all Alternatives include direction to extend Riparian Reserves around unstable areas above or adjacent to streams. If a steep slope that failed would not deliver large wood to stream systems, but could result in mass wasting events that impact roads, residences, put human lives at risk, terrestrial and/or aquatic habitats, or contribute additional sedimentation to waters of the state, there are no provisions in this Draft RMP/EIS to restrict harvesting activities. Management prescriptions should ensure the retention of additional large diameter trees in areas prone to shallow, rapidly moving landslides to buffer against these potential impacts and serve as a source of large wood recruitment for conservation purposes.

- ***The State recommends the RMP explicitly address public safety related to shallow, rapidly moving landslides at least in a manner consistent with the OFPA in the RMP.***

- ***The State recommends the RMP utilize data compiled by the State's Department of Geology and Mineral Industries (DOGAMI) to adequately assess the potential for shallow, rapidly moving landslides across the Planning Area.***

- ***The State recommends the RMP include best management practices to reduce potential landslide impacts from harvest near the State's highway system in the RMP.***

6. The BLM manages a complex and well-utilized travel system. The RMP must address forest-wide issues and concerns related to travel management, and public safety due to both historic and potential future landslides.

The State understands that the BLM is deferring implementation-level Travel Management Planning (TMP) during this current planning effort. Nevertheless, more specificity is needed in the RMP to address forest-wide issues and concerns related to travel management, particularly as they relate to other land management aspects and resources. This includes the specifics related to the various rights of way the BLM maintains with adjoining private forest owners. Without TMP included in the RMP itself, monitoring should include a landscape scale component to assess whether an implementation-level travel management approach helps the BLM achieve broader aquatic and wildlife objectives.

- ***The State recommends the RMP include a crosswalk to future implementation-level travel management planning (TMP). Specifically, the State recommends the RMP identify and propose how implementation-level TMP will be linked to the RMP and landscape-level goals/objectives and "Desired Conditions" and how BLM will coordinate with adjacent National Forests and private landowners during that process.***

- ***The State recommends the RMP include more specific management direction relating to rights of way agreements with adjoining private forest owners.***

- ***The State recommends that monitoring efforts in the RMP be designed to determine if broader aquatic and wildlife protection objectives are being achieved with implementation-level travel TMP.***

Use of motorized off-highway vehicles (OHV) is a significant issue on BLM-administered lands in western Oregon. The increased demand and use is coupled with BLMs lack of capacity to monitor and enforce use/travel restrictions. The need to restrict OHV travel is extremely important to maintaining functional fish and wildlife habitats and avoiding water pollution.

- ***The State supports the direction in the Draft RMP/EIS to restrict OHV use to designated roads and trails and notes that this will impact less than one percent of BLM-administered lands.***

Each crossing of a stream or waterbody containing, or historically containing, native migratory fish could trigger Oregon fish passage laws (ORS 509.580 through 910[8] and OAR Chapter 635, Division 412[9]) that require ODFW engagement and approval. Trigger events include installation of structures of relevance to fish passage (e.g., culverts, artificial obstructions), major replacement or upgrade work, a fundamental change in permit status (e.g., new water right, renewed hydroelectric license), or abandonment of an artificial obstruction. The goal of these fish passage laws is to ensure that stream crossing designs are compliant with ODFW fish passage design criteria and fish passage is unobstructed at all crossing locations.

- **The State recommends Best Management Practices related to roads specify that new, and replacement stream-crossing structures will be consistent with ODFW fish passage laws in the RMP.**

7. The RMP must reduce fire risk to both forest ecosystems, adjoining landowners and communities and firefighters.

While BLM manages a relatively small proportion (with the exception of the Medford District) of the forests in the planning area, the ability of the BLM to positively affect fire regime restoration and provide fuel breaks is nevertheless important, particularly given the checkerboard pattern of land ownership. Fire and fuel management, harvest, and reforestation should strive to create structural diversity and tree density variation at stand and landscape scales to this end. Management that reduces fuel loads on BLM-administered lands can reduce fire severity and spread on all forestlands in the planning area. Since no alternative has substantial decreases in high-severity fire risks, the RMP should include information regarding what additional actions are needed to substantially reduce high-severity fire risk.

The Draft RMP/EIS utilizes several different mechanisms to distinguish the Uneven-aged Timber Area (UTA) within the HLB. Fuel reduction and fire resiliency are the driving management objectives within the UTA. Alternative B assigns the most extensive amount of BLM acres to UTA and is derived from allocating "dry" and "very dry" forest types to this allocation.

- ***The State recommends the RMP utilize the "dry" and "very dry" forest types to distinguish management objectives for wildfire resiliency, given the projected climate patterns and the lifespan of the RMP.***

[8] http://www.leg.state.or.us/ors/509.html
[9] http://www.state.or.us/OARs/412.pdf

The RMP must trigger management actions that minimize transference of wildfire to private landowners. The checkerboard pattern of BLM-administered lands in western Oregon necessitates a coordinated response to wildfire in order to reduce the risk of transferring wildfires to adjoining forest owners. Given ODF's role in providing a coordinated response, the "fire transfer risk" of wildfires between public and private lands has significant potential for costs to the State's annual budget and for costs due to lost opportunities for private landowners. Predictive modeling and management actions also contribute to reducing fire transfer risk in addition to wildfire suppression tactics. The BLM can also address these needs by completing adequate fuel reduction work ahead of wildfires.

Higher fire severity increases the likelihood of transferring wildfire to adjoining forestland owners, and the State asserts that fire risk should be a decision factor among components of Alternatives. Simple metrics, such as acres treated, can give some rough estimates towards reducing fire risk and would be helpful in evaluating management components. With the information provided in the Draft RMP/EIS, it is difficult to assess the percentage of acres of dry forests that will be treated over the first decade.

The Draft RMP/EIS presents a range of post-fire salvage options, both within the HLB and the reserves. These options largely either salvage or not within entire land allocations, and the State encourages the BLM to consider "partial salvage" approaches which could be useful in optimizing ecological function and reducing fire transfer risk to adjoining lands. An example is felling and/or removal of post-fire snags within 250' of adjoining private lands.

- ***The State requests an analysis of fire severity across the landscape as a function of management direction under each Alternative in the RMP/Final EIS.***

- ***The State recommends the BLM work with ODF to develop a high level metric to assess the overall potential transfer of wildfires between BLM and private lands.***

- ***The State recommends the RMP accelerate resilience treatments in the dry and very dry forest types.***

Three critical factors relating to firefighter safety are falling snags, fire-line intensity and rate of spread. The existence of snags across the landscape, standing or on the ground, exacerbate these factors. Given ODF's role to provide wildfire response on BLM lands in the checkerboard, it is within the state's best interest to optimize firefighter safety. The State appreciates the range of post-fire salvage options included in the Draft RMP/EIS. Post-fire salvage can improve firefighter safety when responding to subsequent wildfires in the general area and/or for re-burns of the same stand(s). A lightning strike analysis would also be helpful in assessing whether salvage options optimize firefighter safety.

- ***The State supports post-fire management in the HLB included in all action Alternatives. The State recommends the RMP include the same minimum retention standards for post-fire management as would occur for green timber sales in the corresponding HLB suballocation.***

- ***The State recommends using post-fire management direction within reserve land allocations to optimize firefighter safety and access for subsequent fire events.***

Fire regimes are important to terrestrial habitats, water quality and aquatic ecosystems for several reasons. Natural disturbances are important sources of crucial structural components for stream systems like large woody debris and coarse sediment. Uncharacteristically severe fires can devastate riparian forests and fish populations, affecting parameters such as temperature and sedimentation for

longer time periods than less severe fires that often affect riparian zones less severely or skip them altogether. The RMP should specifically address connections between fire regimes and aquatic and terrestrial systems.

The State supports the application of fuels reduction treatments in older forests associated with dry forest type(s) as appropriate to reduce potential loss of NSO habitat from wildfire. Alternatives A, B and C all include management opportunities within the dry forest LSRs to increase resiliency to wildfire.

With regard to riparian protection, there is a need for caution in post-fire management. Clear evidence exists that post-fire salvage is damaging to riparian areas, removes biological legacies crucial to development of diverse stands and ecological functions, and does not aid in recovery of fire-affected systems (McIver & Starr 2000, Karr *et al* 2004, Reeves *et al* 2006, Thompson *et al* 2007).

- ***The State requests a lightning strike analysis be conducted in the RMP to determine the risk of losing large blocks of habitat, and the contribution of these landscape features to an overall increase of wildfire risk across the landscape.***

- ***The State recommends the RMP integrate fish and wildlife habitat objectives and mitigation actions into fire restoration/rehabilitation programs and actions intended to manage fuels or salvage burned-over areas.***

8. The RMP must recognize the impacts and relevance of management actions in accordance with climate change projections and include robust adaptation strategies.

The RMP needs to incorporate projections of climate change into vegetation and fire behavior modeling. Generally, Oregon will and is already experiencing higher temperatures, drier dry seasons with greater evapotranspiration, and wetter wet seasons with more risk of severe storms and floods (Mote 2003). The information described in the Climate Change section should be incorporated into vegetation modeling. Since fire regimes are already showing deviations from past behavior, vegetation modeling should account for likely fire behavior during the actual life of the RMP. In addition, upward trends in stream temperature due to climate are expected and indicate the need to maintain stream shade and minimize anthropogenic risks and impacts.

- ***The State recommends the RMP use a future climate scenario relevant to western Oregon to inform vegetation modeling. For climate projections, whether general to western Oregon or more specific (i.e. northern/coastal and southern/interior), there are statistical downscaling methods available (e.g. Wood et al 2004 and information from Oregon Climate Change Research Institute).***

- ***The State recommends the RMP include some recognition of the length and severity of the fire season under climate projections is needed in the vegetation modeling for all alternatives to accurately design management actions to increase fire resiliency.***

- ***The State recommends management be designed to mitigate climate change impacts on stream temperature through reducing fire risk, maintaining shade, ensuring retention of structural legacies, and assisting in ecosystem recovery when appropriate.***

In addition to the eight principles above, the State offers the following comments on minor components:

- **Survey and Manage:** The State recommends the RMP provide more detail and clarification of a monitoring and evaluation strategy to determine if protection objectives for Survey and Manage species are being achieved during implementation.
- **Western Snowy Plover:** The State recommends changes in OHV use and Recreation Management Area (RMA) designations in the RMP that would not increase activities in snowy plover habitat.
- **Wild Horses:** The State recommends RMP support monitoring and management of wild, free-roaming horses—including herd reductions—and that management activities related to wild horses should be done in coordination with ODFW to protect the natural ecological balance of all fish and wildlife species.
- **Fisher:** The State recommends that the BLM identify barriers to dispersal, and plan habitat restoration to ensure connectivity and terrestrial corridors for fisher in the RMP.
- **Recreation Management Areas:** The State recommends the proposed "no shooting" designations for areas that are either undeveloped, remote, have low visitor-use, or have seasonal uses that do not coincide with hunting/trapping seasons be re-evaluated in collaboration with ODFW.
- **Areas of Critical Environmental Concern (ACEC):** The State recommends that one component for ACEC designation in the RMP would be watersheds that are "hydrologically unique watersheds that support cold water refugia to aquatic biota". The State recommends these watersheds be identified in collaboration with ODFW and DEQ in the RMP. The State recommends Little Grass Mountain in the BLM Salem District continue to be included as an ACEC in the RMP.

The State can provide additional information and details regarding these comments on the co-equal principles and/or minor components if needed.

Resources Related to Comments

Federally Listed Fish (ESA Plans):

- ODFW. 2014. Oregon Coast Coho Conservation Plan for the State of Oregon. http://www.dfw.state.or.us/fish/CRP/docs/coastal_coho/final/Coho_Plan.pdf
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From: fpaulete@blm.gov on behalf of RMPWO_Comments, BLM_OR <blm_or_rmpwo_comments@blm.gov>
Sent: Saturday, August 22, 2015 11:45 AM
To: RMP-Comments@heg-inc.com
Subject: Fwd: RMP for Western Oregon
Attachments: CTCLUSI_BLM DEIS Comment _082115.pdf

---------- Forwarded message ----------
From: **Margaret Corvi** <MCorvi@ctclusi.org>
Date: Fri, Aug 21, 2015 at 3:49 PM
Subject: RMP for Western Oregon
To: "blm_or_rmpwo_comments@blm.gov" <blm_or_rmpwo_comments@blm.gov>
Cc: Alexis Barry <ABarry@ctclusi.org>, Jan Lawrence <JLawrence@ctclusi.org>

Bureau of Land Management

State Director, Mr. Perez and Project Manager, Mr. Brown

Please find a comment letter from the Tribes to the Bureau of Land Management addressing the Western Oregon Regional Management Plan Draft Environmental Impact Statement attached.

Thank you in advance for your review and consideration,

Margaret

Margaret Corvi

Natural Resources

Confederated Tribes of Coos, Lower Umpqua & Siuslaw

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CONFEDERATED TRIBES OF COOS, LOWER UMPQUA & SIUSLAW INDIANS

TRIBAL GOVERNMENT OFFICES

1245 Fulton Avenue • Coos Ba , OR 7420
541 888- 577 •1-888-280-0726 • eneral Office Fax 541 888-2853

August 17, 2015

Mr. Jerome Perez
State Director
Bureau of Land Management
Oregon/Washington
P.O. Box 2965
Portland, OR 97708

RE: Bureau of Land Management's Regional Management Plan for Western Oregon Draft EIS

Dear Mr. Perez,

I am contacting you on behalf of the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians (Tribes) to express the Tribes' concerns as an interested party and provide comments in the decision making process and execution of the Record of Decision for the new Resource Management Plan for Western Oregon.

The Tribes work cooperatively with Bureau of Land management (BLM) and other federal, Tribal, state and local agencies to oversee land management activities that may impact the Tribes. We commend the BLM in the undertaking of revising the 1998 Management Plan and appreciate the opportunities that the BLM has provided to the Tribes to participate in this process. Within our Ancestral Lands boundary[1] the Tribes' goals include cooperating with all other public and private landowners and land managers to ensure integration of the Tribes' cultural values into management, stewardship, community resilience decisions and protecting cultural resources such as archeological sites. The Tribes have reviewed the BLM's Regional Management Plan (RMP) and have provided our comments below.

The Tribes value the environment for the resources and inherent sacred way-of-life it provides. Although we are not supporting any one Alternative (Alt), we believe there are opportunities for Alt C to retain revenue streams, while satisfying our concerns related to the environment. Riparian reserve areas range greatly under the alternatives in their prescribed buffers around streams. Research efforts[2] which have dealt with only short term effects, have found that a riparian buffer smaller than currently designated under the No Action Alt is sufficient to maintain habitat for upland and riparian species. One study found that stream temperature effects, in headwater reaches that were clear-cut right up to the water, were not statistically significant,

partially due to slash deposited over streams.[3] The Oregon Department of Forestry's study, RipStream, concluded that buffer prescriptions required by the Forest Practices Act contributed to elevated stream temperatures, and that prescriptions under the Northwest Oregon State Forest Management Plan did not significantly alter stream temperatures.[4] Management should focus on resiliency and customized management, not strictly prescribed buffer widths. Buffers should be sufficient to provide shade to the stream, prevent landslides, and reduce sediment runoff. It is difficult to say with certainty that wider riparian buffers and predicted habitat uses are effective ways to benefit ESA species. We are unsure that a larger buffer is better when there is little evidence to support those assumptions, and evidence has been gathered on a very short time scale. We think it is important that not too much weight be placed on any studies that are short term, as all studies may not reflect a long term effects to aquatic species, critical habitats or water quality.

The Tribes do see benefit in integrating scientific study design into management, such as allowing for test areas with different management styles. Potentially, monitoring will support some techniques of the applied management methods over time. This may assist the BLM with decision-making and in keeping the RMP as a "living" document. We are not suggesting that BLM should not follow the plan but, rather that steps can be taken to revise the plan if evidence supports doing so. As a Tribe, our view is sustainability in the long term. We want to see a balance. We see Alt C revenues as a need for the county and suggest that the BLM uses these management prescriptions and integrate other needs such as sufficient riparian protections and LSR habitat.

We recommend adopting a plan that enhances economic benefits to support education opportunities in our five (5) county service district. We are not certain that Alt C provides sufficient, long-term protection of habitat for endangered/threatened/recovering species or culturally significant species. We recommend that Alt C include post-harvest monitoring language for Coastal Coho in the management area. We also recommend that retention of 5-15% be implemented for areas immediately surrounding, but outside buffers of, known ESA habitat sites in an effort to create long term habitat for endangered species while allowing harvesting in a responsible manner.

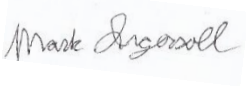
Lastly, the Tribes would like to include for comment a question about how the RMP, if implemented, (irrespective of the alternative selected) may be affected should the Pacific Connector Pipeline[5] be constructed. It is our understanding that part of the proposed route will be through the BLM's lands that fall within the scope of this RMP, and likely, the pipeline will have to mitigate for impacts to critical habitat of ESA listed species. Under these circumstances, we would like the BLM to explain how this dovetails with proposed revisions to the RMP.

The Tribes appreciate the opportunity to share their history, lands, and mission with the BLM and those using the RMP. We are grateful for the opportunity to develop a biography and a map and work with local BLM archeologists respective to cultural resource protection issues.

The Tribes appreciate the BLM's outreach to the Tribal staff and Tribal Leadership. The consultations, Cooperating Agencies Advisory Group (CAAG), technical calls (environmental and cultural resource protection) and comment period extension have enabled the Tribes to understand and participate in the process. We would like to thank BLM in advance for their consideration of Tribal values and impacts in their selection of alternatives, and appreciate all the hard work that went into developing the Draft Environmental Impact Statement.

The Western Oregon Bureau of Land Management lands includes lands that have been home to the people of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw since time immemorial. The Siuslaw, Umpqua and Coos watersheds that are within these lands are named for the people of these Tribes. The Tribes will continue to live and work in these watersheds, develop their connections to these lands and promote the Tribes' culture and cultural values that have served these lands for generations.

Sincerely,



Mark Ingersoll
Tribal Council Chairman

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[1] Ancestral Land Boundary: Starting at a point twelve (12) nautical miles West of the Continental Shelf and running due East to the mouth of the creek known as Ten Mile Creek, in Section 27, Township 15, Range 12 West, Lane County, Oregon; thence East to the watershed between the waters of the junction of the Calapooia Range, near the head water of the Siuslaw River, in Township 21, Range 4 West; thence in a Westerly direction following the summit of the ridge between the waters of the Smith and Umpqua Rivers, to a point due North of the head of tidewater on the Umpqua River; thence South across the Umpqua River to the summit of the mountains dividing the waters of Camp Creek from the waters of the Umpqua River; thence Southeasterly direction along the summit of the Coast Range Mountains, to the summit of the divide separating the waters of Looking Glass Creek from the waters of the South Fork of Coos River in Township 27 South, Range 8 West, Douglas County, Oregon; thence West to a point of rocks known as the Five Mile Point, in Section 19, Township 27 South, Range 14 West, Willamette Meridian, Coos County, Oregon; extending due West to a point twelve (12) nautical miles beyond the Continental Shelf.

[2] "Variable density management in Riparian Reserves: lessons learned from an operational study in managed forests of western Oregon, USA" Samuel Chan, Paul Anderson, John Cissel, Larry Lateen and Charley Thompson l~br. Snow Landsc. Res. 78,1/2:151-172 (2004)

[3] "Effect of Contemporary Forest Harvesting Practices on Headwater Stream Temperatures: Initial Response of the Hinkle Creek Catchment, Pacific Northwest, USA. Kibler, Kelly M., Arne Skaugset, Lisa M. Ganio, and Manuela M. Huso. " Forest Ecology and Management 310, 2013

[4] "Response of western Oregon (USA) stream temperatures to contemporary forest management" Jeremiah D. Groom, Liz Dent, Lisa J. Madsen, Jennifer Fleuret *Forest and Ecology Management August 2011*

[5] Federal Energy Regulatory Commission – Draft Environmental Impact Statement Docket: CP 13-492-000 November 2014

DOUGLAS COUNTY
BOARD OF COMMISSIONERS

CHRIS BOICE SUSAN MORGAN TIM FREEMAN

1036 SE Douglas Ave., Room 217 • Roseburg, Oregon 97470

August 10, 2015

RMPs for Western Oregon
Bureau of Land Management
P.O. Box 2965
Portland, Oregon 97208

Re: Western Oregon Draft Resource Management Plan/Environmental Impact Statement Comments

The Board of County Commissioners for Douglas County, Oregon is submitting the following comments regarding the Draft Resource Management Plan/Environmental Impact Statement for Western Oregon Resource.

Douglas County is submitting these comments on behalf of the citizens of Douglas County and in its role as the local government responsible for land use planning and management within Douglas County.

Pursuant to the Federal Land Policy and Management Act of 1976 ("FLPMA") – the organic act that establishes the BLM's planning mandates – the BLM is to the extent consistent with the laws governing the administration of public lands, coordinate the land use inventory, planning and management activities of, or for, the BLM managed lands within Douglas County with the Board of County Commissioners for Douglas County (*See* 43 U.S.C. §1712(a)(9)). Notwithstanding these FLPMA planning requirements, with respect to the management of the revested O & C Railroad grant lands in the event of conflict with the O&C Act, the O&C Act provisions are to take precedence.

As outlined in prior comments of the Douglas County Board of County Commissioners relative to the Planning Criteria and through its participation with the Oregon Association of O&C Counties (both the County and the Association are cooperating agencies under the provisions of CEQ regulations), the Board of County Commissioners has determined that the draft plan is inconsistent with the Oregon & California Railroad Act and that the BLM has arbitrarily failed to fairly incorporate the social and economic impacts of the proposed actions into its analysis.

Information (541) 440-4201 • Fax (541) 440-4391

The attached comments more fully explain the position and comments of the Board of County Commissioners. If you have any questions, please do not hesitate to contact us.

Respectfully submitted,
DOUGLAS COUNTY BOARD OF COMMISSIONERS

Susan Morgan, Chair | Tim Freeman | Chris Boice

cc: Sally Jewell, Secretary, DOI
Neil Kornze, Principal Deputy Director, BLM
Steve Ellis, Deputy Director for Operations, BLM
Jerry Perez, Oregon State Director, BLM
Mike Haske, Oregon Deputy State Director
Abbie Jossie Roseburg District Manager
Senator Ron Wyden
Senator Jeff Merkley
Representative DeFazio

COMMENTS OF THE
DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS
On The
DRAFT RESOURCE MANAGEMENT PLAN/ENVIORNMENTAL IMPACT STATEMENT
WESTERN OREGON

A. Planning Process Violates the Purpose of the Oregon & California Railroad Grant.

As the Board commented in its prior comments relative to the Planning Criteria, the assumptions that drive the Draft Resource Management Plan/Environmental Impact Statement ("DRMP/EIS") and the identified alternatives, fail to properly recognize that the purpose and need of the DRMP/EIS must be consistent with the purposes underlying the Settlers Clause in the "Act Granting Lands to Aid in the Construction of a Railroad and Telegraph Line from the Central Pacific Railroad in California to Portland ("Railroad Grant") (14 Stat 239) July 25, 1866, as amended.

Congress in the Act of April 10, 1869 amended the original Railroad Grant to add the Settlers Clause by incorporating the following language to section 6 of the original act:

> "Provided further, That the lands granted by the act aforesaid shall be sold to actual settlers only, in quantities not greater than one-quarter section to one purchaser, and for a price not exceeding two dollars and fifty cents per acre." (Chap. 69, 16 Stat at L. 47). (*See also* Act of May 4, 1870, Chap. 69, Stat at L. 94).

When the United States Supreme Court found that the Oregon and California Railroad had violated the Settlers Clause of the Railroad Grant, it also specified that the remedy for the breach was for Congress to address in legislation a process that would fulfill the Congressional intent of the original Railroad Grant (*Oregon and California Railroad Co. v. United States*, 238 U.S. 393, 408, 35 S. Ct. 908, 59 L. Ed. 1360 (1914)). The Court specifically rejected the idea that the lands were forfeited to the United States as the failure of a condition subsequent as decreed by the lower court.[1] Rather it found the Settlers Clause to be a covenant that yet needed to be fulfilled. It left to Congress to determine how to fulfill the covenant under the changed circumstances that were present.

In response, Congress passed the Chamberlain-Ferris Act of 1916 (Pub. L. No. 86, 39 Stat 219). Congress noted that the purpose of the 1916 Act was to recognize and implement Congress' original purpose[2] for incorporating the Settlers Clause into the Railroad Grant. The Committee was clear as to the purpose when it noted:

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[1] The United States had brought suit alleging that the Settlers provisions constituted conditions subsequent and that a breach of the conditions resulted in a forfeiture of the unsold lands to the United States. (*Oregon & California R. Co. v. United States*, 243 U.S. 549, 37 Sup. Ct. 443, 445 (1916)).

[2] The Supreme Court identified the purposes of the O & C Railroad Grant as twofold: first to build the railroad; and, secondly to get the grant lands into the hands of bona fide settlers for the upbuilding of the areas surrounding the railroad. It is this second purpose that is the underlying foundation that provides the legislative intent for interpretation of the Chamberlain Ferris Act of 1916 (Pub. L. No. 86, 39 Stat 219), the Stanfield Act of 1926 (Pub. L. No. 523, 44 Stat 915), and the O & C Act of 1937 (50 Stat. 874). All alternatives must start and end with this intent as their foundation – namely that they are consistent with the O & C Railroad Grant purpose. (*See King et al v. Burwell, Secretary of Health and Human Services, et al*,_____ U.S. _____, June 25, 2015). (Supreme Court looks to the intent of the Act).

". . . grant lands were, by the granting acts, dedicated to the settlement and upbuilding of the State of Oregon…

This object which the Supreme Court so eloquently said Congress had in mind was largely defeated by the railroad company's failure to observe the settlers clause. The major portion of the grant lands is still a wilderness - a 'vast solitude'.

The railroad company was chosen as the agent of Congress to effect the settlement of the grant lands. It was untrue to its trust;[3] except in a very small measure it refused to sell the grant lands to actual settlers, thereby retarding the settlement and development of the State of Oregon.

Inasmuch as the original purpose of the granting acts was the welfare of the State of Oregon, your committee feels that this purpose should now be resumed. It can only be accomplished by devoting the grant lands or their proceeds to the original purpose of hastening the development of the State."[4] 64th Congress 1st Session, Sen. Report 494, May 18, 1916, pp. 41-42.

The foundation of the 1916 Act was the understanding by Congress that it was:

". . . no more than equitable[5] that Oregon should reap the full benefit originally intended to be conferred on the State by the granting acts, viz., the devoting of the lands, or the proceeds therefrom to the upbuilding of the State." *Id.* p. 42.[6]

Contemporaneously with the adoption of the 1916 Act, the Department of Interior also interpreted the 1916 Act in like manner when it stated that the "main object of the Chamberlain-Ferris Act was to "carry out the originally planned disposition and maintain the relative rights of interested parties under the original granting act." (Statement of Rufus G. Poole, ESQ. Office of the Secretary Department of Interior before the House Committee on the Public Lands, April 13, 1937, p. 5).

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[3] This view of the federal government's fiduciary duties is supported by *Mitchell II* which held that "a fiduciary relationship necessarily arises when the government assumes such elaborate control over ... property belonging to a beneficiary"--in particular where, as here, "[a]ll of the necessary elements of a common-law trust are present." 463 U.S. at 225.

> [W]here the Federal Government takes on or has control or supervision over tribal monies or properties, the fiduciary relationship normally exists with respect to such monies or properties (unless Congress has provided otherwise) even though nothing is said expressly in the authorizing or underlying statute (or other fundamental document) about a trust fund, or a trust or fiduciary connection. *See Cobell v. Norton*, 240 F.3d 1081, 1088 (D.C. Cir., 2001). *United States v. Mitchell* ("Mitchell II"), 463 U.S. 206, 225 (1983) (quoting *Navajo Tribe of Indians v. United States,* 224 Ct. Cl. 171, 183 (1980)).

As a result of the revestment under the Chamberlain-Ferris Act, the counties became beneficiaries of the trust lands, but lost the right to sell, lease, or burden the property. The general "contours" of the government's obligations may be defined by the O & C Act, but the interstices of the relationship to the beneficiaries must be filled in through reference to general trust law.

[4] The Grant dedicated the lands and their proceeds to the development of the State.

[5] The recognition of this equitable obligation sets the context for the application of the fiduciary relationship of the BLM to the O & C Counties.

[6] Not only did Congress recognize the unique role of these lands, Congress also expressly stated "We deem it only just and equitable that Congress should make the allotments proposed amendments of this committee to the State of Oregon in reparation for the great damage it has sustained by the refusal to permit settlement of the grant lands." 64th Congress 1st Session, Sen. Report 494, May 18, 1916, p.42.

While the 1937 O & C Act was necessitated by failures of the Chamberlain-Ferris Act to achieve the purposes of the original grant, it nonetheless sought to maintain the relative rights of the parties under the original grant. The 1937 Act was intended by Congress to be a solution to the problems created by the Revestment Act of June 9, 1916 and the Act of July 13, 1926. (*Id.* p. 3.) that prevented the fulfillment of the Congressional intent relative to the Settlers Clause.

Notably, the 1937 Act did not change the original purpose of either the original Settlers Clause or the 1916 Act. Rather it sought to resolve the problems associated with the liquidation of the forest without consideration of the impact on the community industries. The purpose of the 1937 Act was to provide through the sustained yield principles the "conservation and scientific management for this vast Federal property which now receives no planned management beyond liquidation of timber assets and protection from fire." (75th Cong. 1st Sess, House Report No. 1119, p. 2).

The House Committee noted that the purpose of the sustained yield provision was that:

> "[t]his type of management will make for a more permanent type of community, contribute to the economic stability of local dependent industries, protect watersheds, and aid in regulating waterflow." (House Committee Report 1119, 75th Congress, June 28, 1937, p. 2).

The Ninth Circuit Court of Appeals subsequently found that:

> "*** The purposes of the O & C Act were twofold. **First, the O & C Act was intended to provide the counties in which the O & C land was located with the stream of revenue which had been promised but not delivered** by the Chamberlain-Ferris Revestment Act ***. *** The counties had failed to derive appreciable revenue from the Chamberlain-Ferris Act primarily because the lands in question were not managed as so to provide a significant revenue stream; the O & C Act sought to change this. *** Second, the O & C Act intended to halt previous practices of clear-cutting without reforestation, which was leading to a depletion of forest resources." *Headwaters, Inc. v. BLM, Medford Dist.*, 914 F2d 1174, 1183-84 (9th Cir. 1990) (emphasis added).

In *Headwaters*, the Ninth Circuit made clear that timber production and harvest was the way Congress intended to achieve the goal of the original Railroad Grant's Settlers Clause. Congress intended through the sustained yield program of the O & C Act to provide the significant revenue stream to the counties and to support the local economies and industries.

Congress has consistently and clearly stated its intent with respect to the O & C lands when it noted:

> "In so far as changed conditions permit, it is surely (no more than equitable that Oregon should reap the full benefit originally intended to be conferred on the State by the granting acts, *viz.*, the devotion of the lands, or the proceeds therefrom, to the upbuilding of the State.") 64th Cong. 1st Session Senate Report 494, p. 42 (May 18, 1916).

Unfortunately, the proposed planning effort has developed alternatives that are clearly the antithesis of this purpose. The proposed plan elevates other goals over the purposes of the grants – converting the lands to purposes other than contemplated by the O & C Acts.

The timber resource management provisions of the O & C Acts are quite explicit in the requirement that all lands biologically capable of producing timber:

> "* * * shall be managed * * * for permanent forest production, and the timber thereon shall be sold, cut and removed in conformity with the principal [sic] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow,[7] and contributing to the economic stability of local communities and industries, and providing recreational facilities[8] * * *." Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act; 43 U.S.C. § 1181a.

It is this overall statutory scheme of the Railroad Grant and the subsequent legislation to achieve the purposes of the grant that sets the context for the DRMP/EIS alternatives.

In reviewing the DRMP/EIS, all alternatives must be evaluated in the context of their achieving the purposes of the Railroad Grant. It is axiomatic that the BLM cannot adopt an interpretation of the O & C Railroad Grant, or the 1937 Act, such that it negates the stated purposes of these acts. *See New York State Dept. Social Services v. Dublino*, 413 U.S. 405, 419-20, 93 S. Ct. 2507, 2516 (1973) (It would be incongruous for Congress on the one hand to promote a stated right while on the other hand to prevent efforts to that same end.)

By disregarding the original purpose of Congress when it adopted the Settlers Clause, the BLM management has resulted in a death spiral for the counties, rather than a pathway to the upbuilding of the community. It is implausible that Congress meant for any of the O & C legislation to be interpreted to operate in a manner that further retarded the Western Oregon counties.

B. <u>The Statement of Purpose and Need departs from the O & C Act definition of sustained yield.</u>

While Congress determined that "sustained yield" of timber was to be a mechanism for achieving the original purposes of the Oregon and California Railroad Grant, the BLM planning effort is adopting a definition of sustained yield that tramples upon the original Congressional intent. In this case, the BLM has ignored the purpose that Congress sought to achieve by adopting the sustained yield concept in the 1937 Act.

The original intent of the sustained yield concept was to provide a long term production of timber and thereby a significant income stream to achieve the purpose of the Settlers Clause. The BLM has

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[7] The phrase "regulating stream flows" was intended to be construed "to mean the protection of the watersheds and the run-off of waters before they reach or flow into the streams." 75th Cong. 1st Session, Sen. Report. No.1231, p. 5 (Aug. 16, 1937).

[8] The use of the phrase "recreational facilities" was incorporated to allow the generation of revenues through the leasing of facilities. It was not intended to elevate non-income generating recreation above timber production. As the Ninth Circuit noted:

> ". . . the provisions of the revestiture statue affecting Oregon and California railroad lands do not alter the situation. The provisions of 43 U.S.C. Sec. 1181a make it clear that the primary use of the revested lands is for timber production to be managed in conformity with the provision of sustained yield, and the provision of recreational facilities as a secondary use." *O'Neal v. U.S.* 814 F.2d 1285, 1287 (1987).

taken considerable license in interpreting the phrase "sustained yield" such that results in a total disregard of the context in which Congress adopted the sustained yield concept in the 1937 Act.

The context for defining the "sustained yield" language in the 1937 Act, is found in the Supreme Court's statements that the railroad grant policy was for the grant lands to be dedicated to the settlement and upbuilding of the State of Oregon, a policy that was defeated by the railroad company's failure to observe the Settlers Clause. The Supreme Court noted that this failure resulted in a "major portion of the grant lands is still a wilderness – a vast solitude" – a result that was contrary to the grant. (*See* Senate Report 494, 64th Congress May 18, 1916).

As Rep. James W. Mott testified in the May 25, 1937 congressional hearing, the sustained yield management was not to impair or diminish the revenue from the lands that the counties were entitled under the existing law.

Unfortunately, the BLM has developed alternatives that would all unlawfully reserve O & C timberlands from timber harvest and designate them for secondary purposes that do not meet or only tangently touch on the purposes of the O & C Grant lands. For example, each alternative incorporates the following common hard wired design features: (1) designate "large block forest *reserves*" where timber harvest would be prohibited or severely limited and managed for spotted owl and marbled murrelet habitat;[9] (2) *reserve* all forests more than 120-160 years old and prohibit timber harvest on these lands;[10] and (3) designate riparian *reserves* and prohibit timber harvest within these areas and limit thinning in buffers.[11] None of these elements are however, a purpose found in the Railroad Grant nor in any of the legislation implementing the grant.

Each of these three common plan design features effectively nullify the statutorily primary purpose of timber production established by Congress in the O & C Act and equally violates the purposes Congress adopted in the Settlers Clause of the Oregon and California Railroad Grant.

What the Supreme Court saw as the result of the failure of the Settlers Clause – namely, leaving the land in a wilderness or vast solitude – is the same fundamental failure of grant purpose that will result from the proposed BLM planning alternatives allocating 29-57% of the lands to Late Successional Reserves or 14-38% of the lands into riparian reserves.

Congress clearly intended in the 1937 Act that the counties would receive payments based on harvest and that these payments were in part to achieve the original purposes. Not only was the

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[9] The Ninth Circuit previously addressed the extent to which these lands can be managed for wildlife purposes, such as the northern spotted owl, when it noted:

> "*** **Nowhere does the legislative history suggest that wildlife habitat conservation or conservation of old growth forest is a goal on a par with timber production, or indeed that it is a goal of the O & C Act at all.**" Headwaters, 914 F2d at 1184.

[10] It is hard to find a distinction between the concern Congress expressed in 1916 relative to the "major portion of the grant lands . . . [still] a wilderness – a vast solitude" (Sen. Report 494, 64th Congress May 18, 1916) and the proposed DRMP management of late successional reserves.

[11] The 1937 Act specified that the phrase "regulating stream flows" was intended to be construed "to mean the protection of the watersheds and the run-off of waters before they reach or flow into the streams." 75th Cong. 1st Session, Sen Report. No. 1231, p. 5 (Aug. 16, 1937).

sustained yield program designed to achieve the original purposes of the Railroad Grant, in the 1937 Act, the counties also gave up valuable consideration in reliance on the sustained yield program when they not only forgo arguments to have the land in private ownership but also by foregoing any tax claims to the property.

> "Under the terms of the act of July 13, 1926, the land-grant counties submit annual claims for the equivalent of the taxes which would have accrued from these lands had they remained in private ownership. . . But hereafter, no additional tax claims will accrue to such counties as under present law, as the bill provides that their rights shall be limited to a fixed percentage of the proceeds from the lands." (House Committee Report 1119, p. 3).[12]

Like the 1916 Act, the object of the 1937 Act was to maintain the relative rights of the interested parties under the original granting act. It did not create new rights – nor could it while being true to the original purposes of the Railroad Grant. In this case the range of alternatives elevates secondary purposes above the primary purposes in a manner that fails to maintain the relative rights.
As noted earlier, in enacting the O & C Act, Congress reserved all the lands classified as timberlands for the sole dominant purpose of "permanent forest production" and mandated that the BLM sell the maximum sustained yield productive capacity of timber from those lands on an annual basis. "Congress intended to use 'forest production' and 'timber production' synonymously." *Headwaters, Inc. v. BLM*, 914 F.2d 1174, 1184 (9th Cir. 1990).

It is therefore in violation of the O & C Act for the BLM to reserve or otherwise manage O & C lands classified as timberlands for any dominant purpose other than timber production.

C. <u>The DRMP/EIS limits the public's ability to knowingly review and comment.</u>

In the development and/or amendment of Resource Management Plans, the Federal Land Policy and Management Act of 1976 ("FLPMA") requires the BLM to allow opportunities for public involvement (43 U.S.C. §1712(f)). Likewise under the Council on Environmental Quality ("CEQ") regulations, the BLM is to provide the public with an appropriate opportunity to knowingly review and comment on proposed actions (40 C.F.R. §1503.1(a)(4)).

Since the alternatives assist in understanding and evaluating the proposed action, it is axiomatic that for the public to have the ability to knowingly comment requires that the BLM have a range of alternatives that fully explore the options available to achieve the true purpose – namely the achievement of the Congressional intent in adopting the O & C legislation.

The touchstone inquiry is whether an EIS's selection and discussion of alternatives fosters informed decision-making and informed public participation. *California v. Block*, 690 F.2d 753, 767 (9th Cir.1982). While NEPA does not require the consideration of alternatives which are infeasible, ineffective, or inconsistent with the basic policy objectives for the management of the area the alternatives must nonetheless be responsive to the underlying policy objectives for these lands as established by Congress – namely the Settlers Clause, the 1916 Act and the 1937 O & C Act.

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[12] The statutory obligations and fiduciary role imposed upon the Department of Interior relative to the beneficiaries of the Railroad Grant are akin to the same roles imposed on the Department with respect to Indian assets. *See Cobell v. Norton.*

Unfortunately, the DRMP/EIS establishes an alternatives framework wherein all of the action alternatives are hard wired such that none of them fulfill the purposes of the original Railroad Grant. Rather than recognize these lands are to be managed for the benefit of the dependent communities, the DRMP simply elevates other secondary purposes above the Congressional declared policy for these lands.

The DRMP/EIS assumes the economic and social impacts to the affected dependent communities are addressed by simply developing a plan that has some economic output – not in the context of the intent under which Congress adopted the Settlers Clause or the 1937 O & C Act.

The statement of purpose and need, as well as the range of alternatives, violate the planning criteria of FLPMA[13] and the requirements of NEPA by unreasonably defining the alternatives in a manner that artificially narrows the decision space.

The true decision space is in the context of the Oregon and California Railroad Grant; the Act of August 28, 1937 (50 Stat. 874; 43 U.S.C. §1181a-1181j); and, the Act of May 24, 1939 (53 Stat. 753) insofar as they relate to management of timber resources.

Douglas County is of the view that the failure to include alternatives that address the purposes of the Oregon and California Railroad Grant has not only pre-ordained the decision but has also limited the public's ability to knowingly comment on the proposed actions in the context of the O & C Railroad Grant purposes.

To timely disclose the impacts an alternative must be included that is consistent to the fullest extent with the Congressional intent and the Federal trust obligation to the local communities.

D. The Social and Economic Effects Analysis does not properly inform the public or decision maker.

Notwithstanding the clear context of the various O & C legislation, the DRMP/EIS candidly acknowledges that under all action alternatives employment "effects to low-income populations in Coos, Curry, Douglas, and Klamath Counties[14] would be disproportionately negative" under either the lowest harvest level of Alternative A or the higher harvest level under Alternative D. (xxxi).

Likewise in addition to the impact from lower employment, the impact to the local communities resulting from lower earnings and reduction in revenue to counties will further result in disproportionate impacts to low income communities. The low income communities and tribes in these counties will be most vulnerable.

As the community leaders and tribal leaders repeatedly advised the BLM during the outreach, the BLM management practices have resulted in a forest that is not well managed; very few jobs generated; and, management is litigation prone, all of which have created a financial burden on the local communities and tribes. (*See* Appendix O, pp. 1333-1365). Douglas County Commissioner Tim Freeman, and other county commissioners, at the Roseburg meeting repeatedly raised red flag

[13] These O & C Acts prevail over conflicting provisions of the FLPMA (43 USC §1701).
[14] These four counties contain a majority of the O & C lands.

warnings about the major adverse socio-economic impacts of not only the current BLM management but also the impacts from the various action alternatives of the DRMP/EIS.

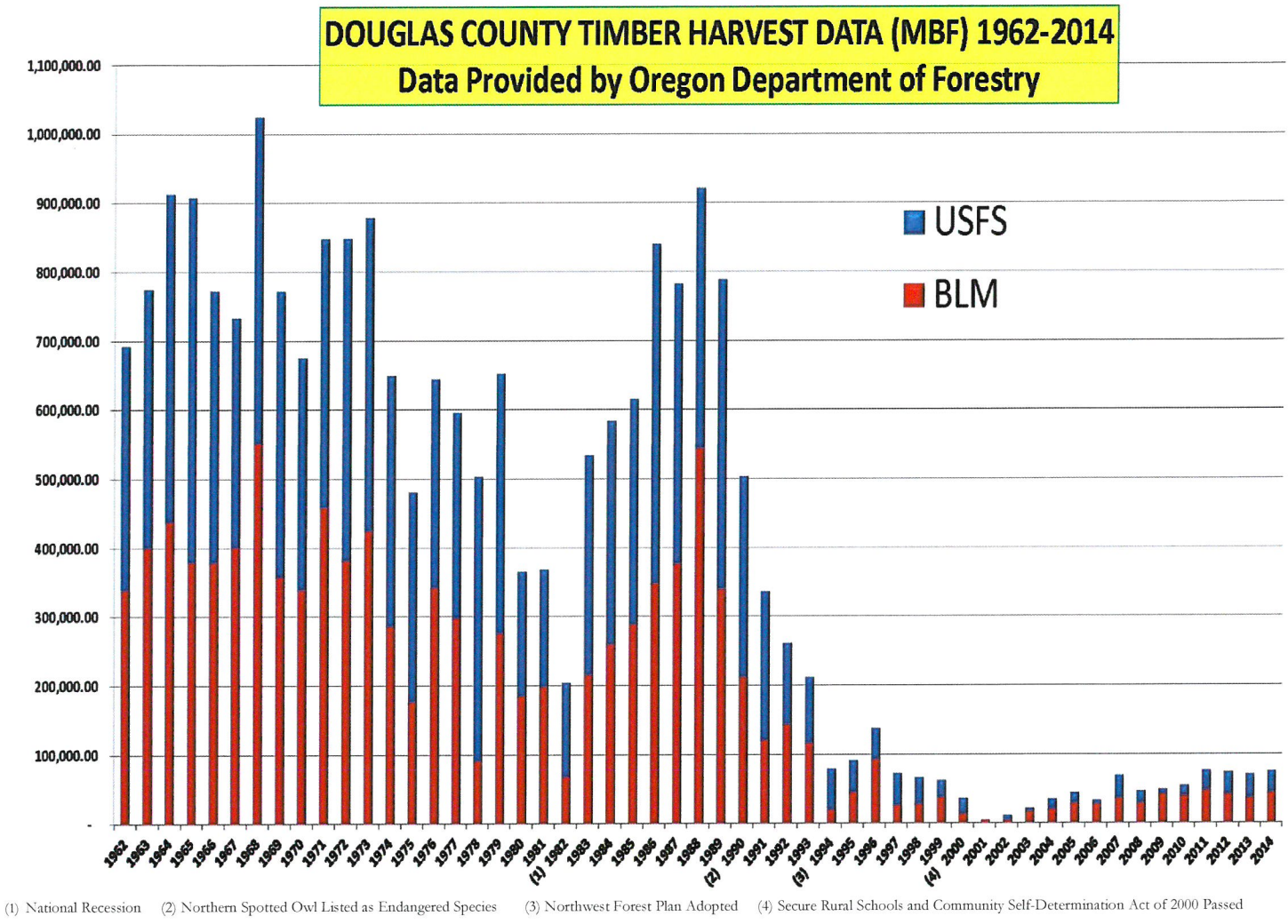
Not only does current management not reflect the intent of the O & C Railroad Grant and subsequent O & C legislation, the proposed action alternatives all move further away from the upbuilding context of the Grant.

Management in recent years for purposes other than the Railroad Grant Settlers Clause has dominated the use of these lands to the point that the Congressional design that the sustained yield management would achieve the purposes of the Settlers Clause has simply been left out of the equation. By the expansive definition being proposed in the DRMP for sustained yield, the management for timber revenues simply takes a back seat to other purposes.

The Ninth Circuit previously addressed the extent to which these lands can be managed for wildlife purposes when it noted:

> ". . . **Nowhere does the legislative history suggest that wildlife habitat conservation or conservation of old growth forest is a goal on a par with timber production, or indeed that it is a goal of the O & C Act at all.**"
> *Headwaters*, 914 F2d at 1184.

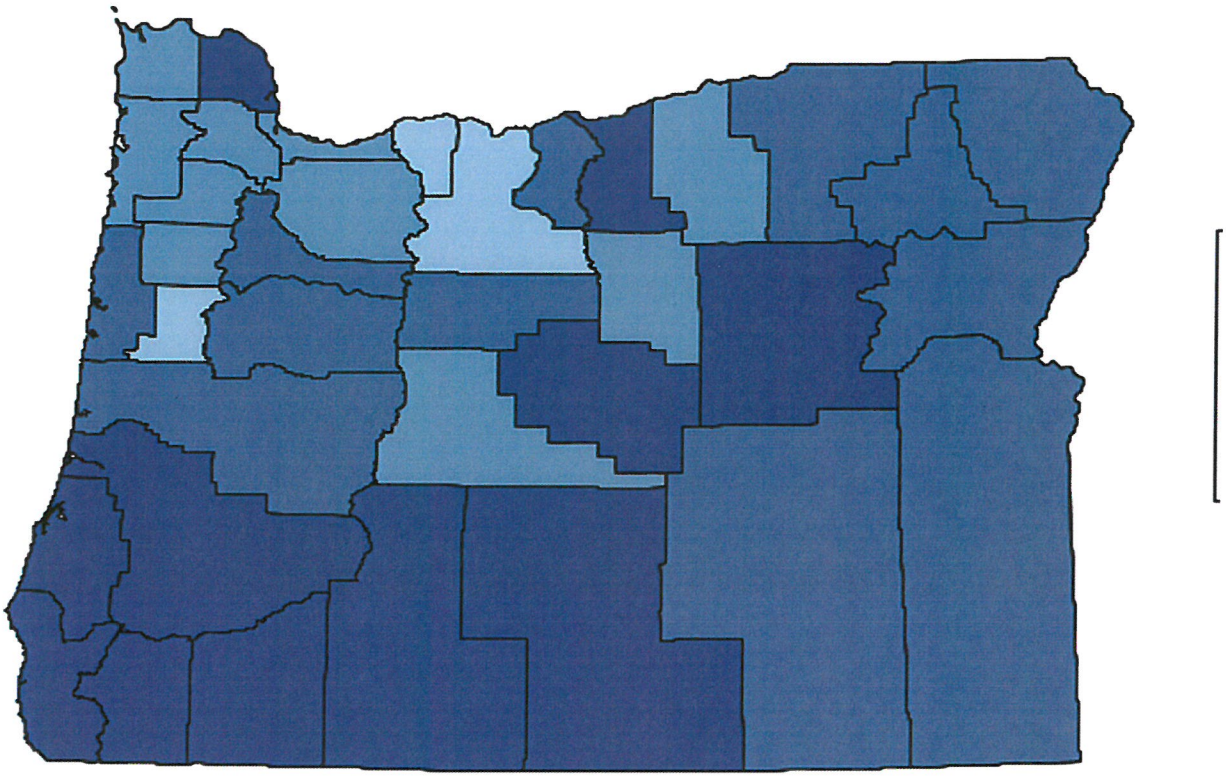
Under the proposed action alternatives it is clear that the BLM does not consider the achievement of the Settlers Clause as being on par with these other objectives. The BLM has flipped the priorities such that the Settlers Clause objectives are now subrogated to the point that the BLM's proposed management strategies actually serve to undermine the foundations of these O & C dependent communities.



(1) National Recession (2) Northern Spotted Owl Listed as Endangered Species (3) Northwest Forest Plan Adopted (4) Secure Rural Schools and Community Self-Determination Act of 2000 Passed

As the above chart illustrates the timber management over recent years has effectively destabilized the local communities. The adverse impacts are further illustrated by the employment changes in the County.

Unemployment rates by county, not seasonally adjusted, Oregon June 2015



The dark blue areas represent unemployment rates in the 7.0-9.9% level in June of 2015. It is not a coincidence that the O & C Counties of south western Oregon (Douglas, Coos, Curry, Josephine, Jackson and Klamath) are among the highest unemployment areas. (http://data.bls.gov/map/MapToolServlet).

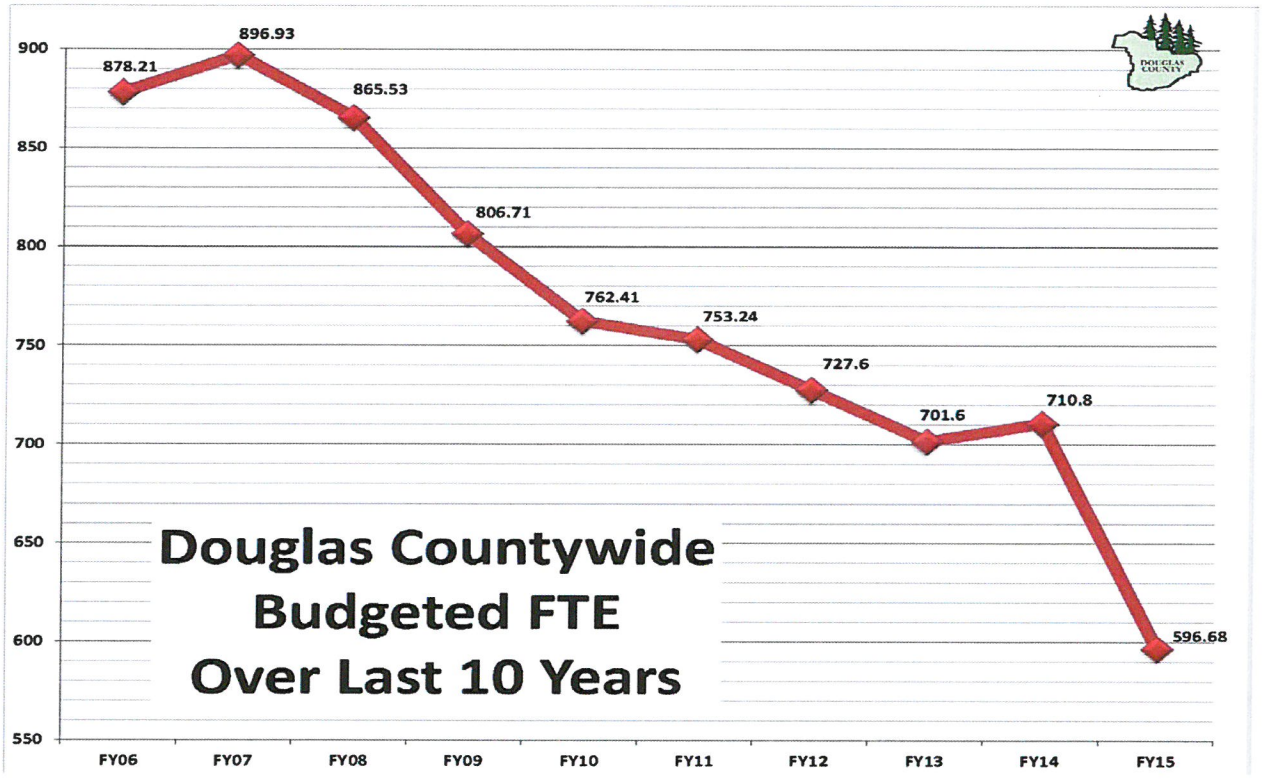
By way of comparison in June, 2009, the unemployment rate in Douglas County was 15.7% and for the same six counties the rate ranged from 13.1 to15.7%. In June of 1990 the Douglas County unemployment rate was 6.6%. (http://data.bls.gov/map/MapToolServlet).

The relationship between county governments' ability to provide services is directly tied not only to the number of persons employed in the County and by the County, but also by the amount of timber receipts derived from the O & C lands. As beneficiary of the Settlers Clause, the County has been able to provide a stable environment of government services to the community, however, today the County is forced to rely primarily on reserve funds – a source that cannot continue.

While the DRMP/EIS economic analysis purports to address the local economic impacts, it does so by reference to county payments, rather than a more appropriate discussion of how these payments are utilized by the counties to provide essential services (*e.g.* sheriff patrol, jail capacity, emergency communications and response, criminal prosecution capacity, juvenile services, transportation infrastructure, water resources enhancement, economic development and job creation efforts, libraries, museum, recreation and other cultural enhancement efforts). To offset the loss of O & C revenues, the counties are forced to curtail or terminate these services (e.g.

mental health, library, etc.) or increase fees (e.g. parks), all of which have disparate impact on low income citizens. These are the true economic impacts that need to be disclosed in the DRMP/EIS.

With reduction in revenues, Douglas County has been forced to reduce its workforce and reduce its hours of service.



Rather than address the social and economic conditions of the County, or the O & C region, the BLM simply assumes that any harvest – no matter how minimal - will satisfy the Congressional mandates for the O & C lands. The DRMP action alternatives simply ignore these mandates and establish a process that destabilizes the local communities. The DRMP simply reverts the region back to experiencing the very damages that the 1937 Act was designed to resolve.

E. The BLM Planning Criteria have Deprived the Public of Ability to Comment on "Reasonable and Prudent Alternatives" to Avoid Jeopardy.

The BLM methodology is also flawed in that it is improperly limiting the public's ability to comment by purposefully hard wiring the regulatory agency comments while excluding alternatives that fulfill the 1937 O & C Act and Railroad Grant.

The BLM has essentially hard wired regulatory agency comments without affording the public the opportunity to knowingly review and comment on the accuracy of the comments or other alternative measures that could prevent jeopardy while achieving the purposes of the O & C Act.

By designing alternatives that are driven by regulatory agency guidelines which have elevated secondary purposes over the primary purpose, the BLM fails to set forth and explore a range of alternatives that allow for fulfillment of the Railroad Grant. Further, when the regulatory agencies drive the alternatives development process they are operating outside the normal checks and balances afforded the public under the regulatory agencies' principal acts (*e.g.* Endangered Species Act).

For example, by incorporating recommendations from the United States Fish and Wildlife Service ("USFWS") into the planning process, it short circuits the biological opinion process utilized to determine potential jeopardy under the ESA and shortcuts the "reasonable and prudent alternatives" process of the ESA.

The USFWS consultation regulations not only define the jeopardy factors to be considered, but also explain that the Service has a duty under the ESA to propose "reasonable and prudent alternatives" that would avoid jeopardy and adverse modification. These "reasonable and prudent alternatives" are to be: (1) consistent with the purpose of the underlying action [implementation of the various O & C legislation]; (2) consistent with the action agency's [BLM] authority [O & C legislation & FLPMA]; and (3) economically and technologically feasible.

The public is to be afforded the opportunity to review and comment on the regulatory agency's proposed "reasonable and prudent alternatives" when the action agency develops its own NEPA analysis – an analysis that is required to occur after public disclosure of the reasonable and prudent alternatives and prior to any final decision.

It is notable that the USFWS has recently been submitting to outside peer review its "reasonable and prudent alternatives" during its jeopardy process. However, in this case the BLM simply hard wired the USFWS' strategy without these "reasonable and prudent alternatives" being subjected to either outside peer review or public review. The agencies have essentially short circuited the process by simply hardwiring into all alternatives the agency's "reasonable and prudent alternatives" recommendations.

It is important to also recognize that the ESA does not require the action agency to adopt the "reasonable and prudent alternatives", it may instead elect to exercise other steps to avoid an ESA taking of the species. In this case, the BLM simply short circuited the process by hard wiring the "reasonable and prudent alternatives" recommendations into every action alternative and does not disclose what other options may be available.

By short circuiting the ESA process and imbedding the Service's comments into the alternatives, the public does not have the opportunity to fully and knowingly comment nor is the decision maker afforded the information to fully understand the options available.

F. The Flawed Purpose and Need Statement Taints Planning Effort.

The Counties identified fundamental flaws in the process early when the County representatives met with State Director Perez and Mark Brown in July, 2013, to express grave reservations about the path the BLM had chosen. Following that meeting, the Counties reiterated their concerns in a letter sent to Mr. Perez in early August. We now restate the concerns previously made, by quoting from the letter to the BLM of August 7:

> "Thank you for meeting with the representatives of this Association on July 19, 2013, to hear our concerns about the Purpose and Need Statement ("PNS") for the Western Oregon planning effort. The Association of O & C Counties continues to have serious reservations about how the PNS will be used to limit the scope of alternatives that will be analyzed in the planning process. If this process proceeds as indicated in the PNS, the result will be failure to analyze a reasonable range of alternatives, a violation of one of the most fundamental planning obligations of the agency."
>
> "The PNS is a significant departure from the Notice of Intent (NOI) published in the Federal Register on March 9, 2012. The NOI acknowledges that the vast majority of the BLM administered lands in the planning area are O & C and CBWR lands, managed under the statutory authority of the O & C Act of 1937. The NOI further states that the RMPs and EIS will conform to this statutory requirement and will comply with the Endangered Species Act, Clean Water Act, NEPA and other Federal laws. The PNS, however, emphasizes meeting regulatory compliance objectives first, prior to meeting BLM'S statutory obligations under the O & C Act. The PNS provided no discussion about how the statutory requirements and the regulatory requirements should be met simultaneously."
>
> * * *
>
> "The PNS guides the development of plans by establishing sideboards for the development of alternatives to be considered. It also has the potential for creating false expectations and outcomes. The PNS appears to limit the range of alternatives in a way that forecloses consideration of any alternative designed to simultaneously comply with the O & C Act and meet regulatory constraints imposed by the ESA, the Clean Water Act, and other legislation. Failure to include such an alternative means that the BLM will not even evaluate the possibility of accomplishing what we believe is required by the law. The BLM's 2008 RMPs proved that it is possible to achieve the required outcomes by seeking the most efficient means of achieving otherwise competing values simultaneously, rather than serially, as it appears is being required by the PNS. Limiting evaluation of alternatives in this manner is rigging the process in a way that assures an outcome completely unacceptable to the intended beneficiaries of the O & C Act, the O & C Counties."
>
> "At the meeting Mark Brown stated that many things are not expressed in the PNS that will further evolve in the Planning Criteria. We suggest that the changed economic circumstances of the counties and the implications of returning to timber sale receipts as the source of revenue be acknowledged. That would form the basis for adding the generation of revenue as an objective of the plan as intended under the O & C Act. The Planning Criteria

could also establish clearer standards that reflect the NOI for compliance standards for ESA and CWA."

The BLM did not respond to this letter and, based on what has been published in the DRMP/EIS, the BLM has clearly chosen to ignore the Counties' concerns.

FLPMA expressly requires that the BLM not only "coordinate" its land use planning and management activities with the land use planning and management programs of local governments, it is also to ensure that the BLM land use plans and the amendments thereto are:

> "consistent with State and local plans to the maximum extent . . . consistent with Federal law." 43 U.S.C. §1712(c)(9).

The BLM overlooks that unique role that the Counties have as beneficiaries of the Settlers Clause as well as their roles under the FLPMA and the O & C Acts, the failure to respond to the comments violates FLPMA requirements that the BLM keep apprised of the local land use plans; assure consideration of local plans; assist in resolving inconsistencies; and, provide for meaningful public involvement of elected local officials.

Further, it violates the requirements that the BLM plans be consistent with the plans and management programs of local governments to the extent possible. Under the provisions of 43 U.S.C. §1712(a)(9) and 43 C.F.R. §1610.3-2, any FLPMA land use planning is required to be coordinated with and be consistent with the plans, policies and programs of the local governments.

The BLM planning effort has not only failed to coordinate and be consistent with local plans and policies relating to the O & C lands, it has chosen to ignore the comments and concerns of the counties. The FLPMA is clear that the BLM is not only to coordinate with the local counties (43 U.S.C. §1712(c)(9), it is also to be consistent with the plans and policies of the counties **"to the maximum extent"** (43 U.S.C. §1712(c)(9). The "maximum extent" requirement is trumped only if the BLM finds an inconsistency between county plans and policies and the Federal law and the purposes of FLPMA that prevent being consistent. However before the local plans and policies are trumped, the BLM must first actually undertake the consistency review in good faith; and, secondly, make a finding that there is no possible alternative that will allow consistency with the local plans and policies.

There is no documentation in the DRMP/Final EIS that evidences these reviews and analysis have occurred.

G. Consistency with Local Authorities' Fire Protection Policies.

The DRMP/EIS fails to discuss the consistency with the Douglas Fire Protection Association, Douglas County, and/or the Oregon Department of Forestry fire protection and management requirements and practices.

The 1937 O & C Act specified that when the BLM formulates regulations for the protection of the revested lands, it is mandated that:

> "rules and regulations for the protection of the revested lands from fire shall conform with the requirements and practices of the State of Oregon insofar as the same are consistent with the interests of the United States." 43 U.S.C. §1181e.

While the DRMP/EIS contains an informative discussion on the ability of each of the alternatives to improve the forest fire resiliency, it does not address whether the requisite consistency review has occurred.[15]

Congress recognized that to avoid confusion and chaos the fire protection on the O & C revested lands must be in conformity with the fire protection programs of the State of Oregon.

The local Douglas Forest Protective Association, has expressed grave concerns with the BLM's snag retention; fuels management programs; road closures; and, failure to control brush fields. These deficiencies are not only creating significant risk to fire fighters, forest workers and the public, it is increasing the risk of fire to the neighboring private lands. Given the checkerboard nature of the O & C lands the lack of fire prevention on the O & C lands effectively increases the risk to private lands. This "transfer of risk" is clearly evident as illustrated by the Douglas Fire Complex and the fire risk posed by the current Late Successional Reserves.

While the DRMP/EIS address fire risk in the context of creating fire resilient forests, it does not address the other concerns raised by the DFPA.[16] DFPA specifically stated that:

> "All alternatives proposed in the current Draft RMP fail to adequately address post fire/natural disaster salvage or fuels mitigation as a viable alternative to reducing high intensity fires on the landscape, nor does the Draft RMP address a strategy to reduce the number of large fires or how the agency intends to reduce the number of acres burned."

The DFPA correctly noted the risk of fire is shared in the O & C checkerboard and that it is "imperative that all landowners take significant and timely actions to reduce the risk of large high severity fires in the future."

The DRMP/EIS simply fails to address how the proposed action alternative effectively reduces the risk not only to the BLM lands but also to the neighboring private lands in the checkerboard.

In addition, Douglas County has, in response to the Healthy Forest Restoration Act, created a community fire action plan. While the DRMP/EIS generically references these community wildfire

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[15] This consistency review is distinct from the consistency and coordination required under the FLPMA.

[16] It is more than passing interest that the DRMP/EIS acknowledges that the modest shifts under any alternative would not result in any substantial change in the overall landscape fire resilience in the region. p. xxviii. Notwithstanding that one of the purposes of the DRMP is to address fire resiliency it does not appear to have considered a sufficiently broad range of action alternatives.

protection plans, it does not address how BLM will comply with these plans nor the impacts of compliance. The DRMP/EIS merely states:

> The Healthy Forest Restoration Act provides the latitude to Community Wildfire Protection Plans (CWPP) to refine their WUI boundary, based on vegetation conditions, topography, and geographic features, including infrastructure, where strategic fuel reduction can reduce risks from large, severe wildfires and promote fire-adapted communities. Additionally, Community Wildfire Protection Plans may incorporate areas near communities that have important economic, social, cultural, visual, and ecological values in the delineation of their WUI boundary (CWPP Handbook 2004). Community Wildfire Protection Plans and collaborating partners use WUI boundaries for local coordination, prioritization, and implementation of landscape-level fuel treatments, the identification of strategically defensible fuel breaks for wildfire management, and the recognition and protection of local values. DRMP/EIS p. 198.

While implementation of the CWPP would have positive benefits relative to achieving a more fire resilient forest, we do not see any of the alternatives addressing these elements. In fact one is left with the impression that fire risk may in fact be increased over the life of the RMP as a result of the BLM utilizing prescribed burns or departing from a wildfire suppression strategy.

Recent denial of claims for damages resulting from the inability of the Forest Service to control a prescribed burn in the National Grasslands further illustrates the need for consistency with State policies on fire as well as closer scrutiny of measures to increase resiliency.

We provide these two examples of concerns of State of Oregon agencies charged with protecting lands within the County from fire not only to illustrate the concerns that are not addressed in the DRMP/EIS, but also to illustrate that the requisite consistency review has not been undertaken and documented in this DRMP/EIS. The consistency review needs to be completed and disclosed for public review and comment prior to the issuance of a final and Record of Decision.

Of concern to Douglas County is the DRMP proposal to designate large areas as LSR and the concurrent failure to develop any alternative that effectively reduces the stand level fire hazard within Late Successional Reserves. The following comment from the DRMP/EIS illustrates that the range of alternatives did not provide the opportunity to fully understand the risks of the proposed alternatives.

> "In addition, as concluded in Issue 2, all alternatives would have similar effects on fire resistance within the Late-Successional Reserve. Similarly, the patterns of change in stand-level fire hazard would not differ within Late-Successional Reserves among alternatives . . ." p. 202

Further illustrating the lack of appropriate alternatives is the comment that:

> The full range of wildfire response tactics would be available under all alternatives. Maintenance of fire suppression related infrastructure would not change among

> alternatives.[17] The ability to conduct salvage harvest for purposes of protecting human health and safety within the dry forest would be available under all alternatives.[18] Because these factors would not differ among the alternatives, there is no reasonable basis on which to identify a difference in the effect of the alternatives on wildfire response at this scale of analysis, beyond the effects to landscape-level fire resilience, stand-level fire resistance, and stand-level fire hazard already described above. DRMP/EIS, p. 212.

While the BLM asserts there would be no difference between alternatives relative to wildfire response, it is ignoring that the differences are there given the variations in Late Successional Reserves; post fire management of Late Successional Reserves; snag retention; and, the variations in road systems. The BLM needs to address more than just fire resilience but also wildfire response both in the context of active fire as well as post fire activities.

Conclusion.

The Board of County Commissioners for Douglas County requests that the DRMP be revised to reflect the Congressional intent of the Railroad Grant and the purposes of the 1916 and 1937 Acts.

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[17] It is questionable whether this statement is accurate given the concern raised by DFPA relative to road closures and the need for maintaining the road system necessary to rapidly respond to wildfire.

[18] One must question the sincerity of this statement given the failure to salvage harvest within the LSR areas of the Douglas Fire Complex.

Jasmine Benjamin

From: m1allen@blm.gov on behalf of RMPWO_Comments, BLM_OR <blm_or_rmpwo_comments@blm.gov>
Sent: Thursday, August 20, 2015 8:45 AM
To: RMP-Comments@heg-inc.com
Subject: Fwd: BLM/RMP Comments and Coordination
Attachments: 20150820081922.pdf

---------- Forwarded message ----------
From: **Wendy Guinn** <WGuinn@co.josephine.or.us>
Date: Thu, Aug 20, 2015 at 8:31 AM
Subject: BLM/RMP Comments and Coordination
To: "blm_or_rmpwo_comments@blm.gov" <blm_or_rmpwo_comments@blm.gov>

Please see the attached letters and Resolution signed by the County Commissioners on August 19, 2015.

Wendy Guinn

Josephine County Board of Commissioners

500 NW 6th Street, Dept. 6, Room 154

Grants Pass, OR 97526

541-474-5221 #2

Office Hours: Monday through Friday

8:00 a.m. – 12:00 p.m.

Josephine County Board of Commissioners
Keith Heck, Chair • Cherryl Walker, Vice Chair • Simon G. Hare, Commissioner

August 19, 2015

Jerry Perez, State Director
Bureau of Land Management
1220 S.W. 3rd Avenue
Portland, Oregon 97204

By Email and Regular Mail
(blm_or_rmpwo_comments@blm.gov)

RMPs For Western Oregon
Bureau of Land Management
P.O. Box 2965
Portland, Oregon 97208

Re: Coordination with Josephine County on BLM Western Oregon Draft Resource Management Plan

Dear Mr. Perez:

The Josephine County Board of Commissioners passed the attached Resolution at a public meeting today. The Resolution pertains to the BLM's proposed Resource Management Plan (RMP). In it the Board states its opposition to the proposed RMP, and opposes the inclusion of any additional portion of the Rogue River into the National Wild and Scenic Rivers System.

This Resolution is respectfully submitted as a comment for the official record regarding the proposed RMP.

Board of County Commissioners

K. O. Heck

K. O. Heck, Chair

Cherryl Walker

Cherryl Walker, Vice Chair

Simon G. Hare

Simon G. Hare, Commissioner

COURTHOUSE
500 N.W. Sixth Street, Dept. 6, Grants Pass, Oregon 97526 • Phone: (541) 474-5221 Fax: (541) 474-5105

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON

In the Matter of Opposition to the Inclusion of an additional portion of the Rogue River into the National Wild and Scenic Rivers System	))))	Resolution No. 2015-034

WHEREAS, the Board of County Commissioners is the duly elected governing body of Josephine County; and

WHEREAS, on February 18, 2015, the Board adopted a Natural Resources Federal Coordination Plan (Board Order 2015-007, amending Board Order 2012-038), which provides that new laws and policies should be geared toward protecting and sustaining Josephine County's culture and traditions; and

WHEREAS, on February 18, 2015, the Board provided a copy of the most recent policy to the United States Bureau of Land Management (BLM) and officially requested to meet with BLM officials; and

WHEREAS, the BLM has failed to coordinate with Josephine County in developing its draft Resource Management Plan; and

WHEREAS, the Board is opposed to the BLM's draft Resource Management Plan; and

WHEREAS, the segment of the Rogue River extending from the mouth of the Applegate River downstream to the Lobster Creek Bridge is already included in the National Wild and Scenic Rivers system through Public Law 90-542 (1968); and

WHEREAS, as part of its Resource Management Plan the BLM Medford District has produced a suitability study recommending that Congress designate 63 additional miles of the Rogue River beginning at Lost Creek Dam as Wild and Scenic; and

WHEREAS, 17,005 (85.9%) acres of the Rogue River corridor are privately owned; and

WHEREAS, inclusion into the National Wild and Scenic Rivers System could affect, by scenic easements, private lands, their uses, conditions of residential and other development, vegetative management, and other property rights; and

WHEREAS, the Board is opposed to any further erosion of public and private property rights and potential recreational uses; and

WHEREAS, the Rogue River is already managed with current state and local restrictions, and the BLM owns just 3.8% of the property running along the banks; and

WHEREAS, further restrictions will have a harmful effect on the culture and traditions of Josephine County, and will diminish the ability of county residents to enjoy the river and benefit from it economically; now, therefore

IT IS HEREBY RESOLVED that the Board of County Commissioners is opposed to including any additional portion of the Rogue River into the National Wild and Scenic Rivers System.

Dated this 19th day of August, 2015.

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS

K. O. Heck, Chair

Cherryl Walker, Vice-Chair

Simon G. Hare, Commissioner

Josephine County Board of Commissioners
Keith Heck, Chair • Cherryl Walker, Vice Chair • Simon G. Hare, Commissioner

August 19, 2015

Jerry Perez, State Director
Bureau of Land Management
1220 S.W. 3rd Avenue
Portland, Oregon 97204

By Email and Regular Mail
(blm_or_rmpwo_comments@blm.gov)

RMP's for Western Oregon
Bureau of Land Management
PO Box 2965
Portland, Oregon 97208

Re: BLM RMP Southwestern Oregon Fire Resilient Forest Management

Dear Mr. Perez:

The Josephine County Board of Commissioners request that further study and more robust provisions be provided in the scope of alternatives with regard to mitigating the catastrophic wildfire risk in Southern Oregon. Josephine and Jackson County, as a region, generally host 25-30% of the fires in Oregon in any given year. These two counties also have the most complex system of ownership in over 600 counties in the western United States.

Josephine County owns and manages over 30,000 acres of forest land on a sustained yield management program distributed on nearly 200 separate lots. The revenue from these lands is used for the sole purpose of off-setting the cost of county government (funding programs such as Public Safety) to the benefit of more than 83,000 county residents. These lands also provide for critical habitat, key watersheds, wood for local mills, sequestering carbon, recreational opportunities and other cultural amenities.

The management program of the BLM and other woodlot owners is critical to the success of the Josephine County Forestry Program. Good stewardship before and after catastrophic wildfire, constant maintenance of access roads and fuel load mitigation is key to achieving all of our forestry program goals.

Following the Douglas Complex Fires of 2013, Josephine County Forestry harvested dead and dying timber and replanted over 1,300 acres in compliance with the provisions of Oregon Forest Practices Act. This million dollar investment, by a cash strapped county, is at risk because more

often than not, our federal neighbors did not do the same. Unless managed properly, lands that have experienced sever wildfire often will re-burn two and three times. The dead timber act as tall dry lightning rods, give lightning an easy target to strike. Snags and downed trees make it impossible to combat these fires by ground based fire fighters because of the extreme hazards.

Southern Oregon like much of the western United States is experiencing a multi-year severe drought situation. These conditions are likely to get worse before getting better. With several decades worth of accumulated material in our federally managed forests the time to act is now. We request an aggressive management program on a broad landscape that will create fire resilient forests. These programs should pay special attention to protect high value resources such as watersheds, roads and commercial timberland by creating fuel breaks along these boarders.

We would finally encourage the agency to exercise its responsibility to coordinate with Josephine County and specifically on the provisions provided within our Community Wildfire Protection Plan.

Board of County Commissioners

K. O. Heck, Chair

Cherryl Walker, Vice Chair

Simon G. Hare, Commissioner

Josephine County Board of Commissioners
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August 19, 2015

Jerry Perez, State Director
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(blm_or_rmpwo_comments@blm.gov)

RMPs For Western Oregon
Bureau of Land Management
P.O. Box 2965
Portland, Oregon 97208

Re: Coordination with Josephine County on BLM Western Oregon Draft Resource Management Plan

Dear Mr. Perez:

This is one of four official letters from the governing body of Josephine County, Oregon, regarding the county's objections to the BLM's proposed Resource Management Plan (RMP) for the approximately 2.4 million acres of forestland that are commonly called the O&C property. Josephine County objects to all four of the BLM's proposed alternatives (A, B, C & D) that have been presented for public comment pursuant to the Resource Management Planning Process.

The BLM has a legal responsibility to coordinate with local governments. To the extent practicable, the BLM must seek to maximize consistency with the plans and policies of other government entities. FLPMA, 43 U.S.C. 1712(c). In addition to the public involvement prescribed by 43 CFR 1610.2, the BLM must coordinate with local governments and assist in resolving, to the extent practicable, inconsistencies between Federal and non-Federal government plans. 43 CFR 1610.3-1.

Josephine County, unlike many counties, has not entered into a Cooperating Agency agreement with the BLM. Additionally, while Josephine County is a member of the Association of O&C Counties, we have not delegated that organization to make agreements on our behalf. Having a system of Cooperating Agency agreements does not relieve the BLM of its responsibility to coordinate with Josephine County, particularly since we are not a cooperating entity.

In crafting this RMP, the BLM has failed to coordinate with Josephine County. The BLM's process is therefore inconsistent with Federal law which renders the RMP invalid.

On February 18, 2015, the Board of Josephine County Commissioners sent its annual coordination letter to the BLM's Western Oregon Plan Revisions Office. The letter requested advance notification of planning changes, rule changes, and other actions affecting BLM lands in Josephine County. The letter also noted that Board Order 2015-007 updated the County's Natural Resource Coordination Plan pertaining to O & C Land Act Specific Policies. Josephine County's Federal Coordination Policy states, in part, "Josephine County maintains that the O&C Act of 1937 is the governing law regarding this unique federal property. As such, the Endangered Species Act, the Clean Water Act, and the Administrative Procedures Act do not grant discretion to the BLM to authorize harvest levels below the sustainable yield target that is required by the O&C Act of 1937."

Unfortunately, all four of the RMP's proposed alternatives (A, B, C & D) fall well short of the requisite sustainable yield target. Thus, the entire RMP is inconsistent with Josephine County's Natural Resources Coordination Plan.

On March 11, 2015 Josephine County sent a letter to Medford District Manager Dayne Barron regarding the RMP. The letter stated in part, "We object to your proposal and hereby assert our right to coordination on this matter." The letter requested a meeting with BLM regarding the RMP prior to April 6, 2015. On April 28, 2015, Deputy State Director Michael Haske sent a letter to Josephine County acknowledging receipt of the county's letter, and BLM invited the county to contact agency officials to arrange a meeting. Since sending its letter, the county has made repeated, unsuccessful attempts to meet with Dayne Barron, but the county's interest in meeting with the BLM about the RMP has not been reciprocated. Federal law requires the BLM to coordinate with the county, not the other way around. The BLM has known for years that the county wants to meet and coordinate regarding the RMP, but the agency has taken no steps whatsoever in that direction.

Interestingly, the county also sent a coordination letter to the U.S. Forest Service on March 11, 2015, regarding a different topic, and that agency promptly responded. The county and the U.S. Forest Service have already enjoyed two successful coordination meetings and are on their way to establishing a productive, long-term connection.

In summary, Josephine County objects to the RMP for a variety of reasons, one of which is the BLM's failure to abide the coordination requirements of federal law. Therefore, the county seeks a renewal of the RMP process.

Board of County Commissioners

K O Heck

K. O. Heck, Chair

Cherryl Walker

Cherryl Walker, Vice Chair

Simon D. Hare

Simon G. Hare, Commissioner

Josephine County Board of Commissioners
Keith Heck, Chair • Cherryl Walker, Vice Chair • Simon G. Hare, Commissioner

August 19, 2015

Jerry Perez, State Director
Bureau of Land Management
1220 S.W. 3rd Avenue
Portland, Oregon 97204

By Email and Regular Mail
(blm_or_rmpwo_comments@blm.gov)

RMP's for Western Oregon
Bureau of Land Management
PO Box 2965
Portland, Oregon 97208

Re: BLM RMP O&C Forest Management Principles

Dear Mr. Perez:

The Josephine County Board of Commissioners request that further study and more robust provisions be provided in the scope of alternatives with regard to forest management based on the principles of sustained yield on all O&C Lands.

The O&C Lands Act placed management jurisdiction of the lands under the United States Department of the Interior, and directed that timberlands be managed:
. . . for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities . . .(43 U.S.C. §1181a)

Prior to the passage of the act, no provisions for reforestation existed. The O&C Lands Act embraced the new principles of "sustained yield" requiring that harvested areas be reforested. The intent of the act was to provide a minimum level of harvest of 500 million board feet annually and a future source of timber which would contribute to local economic stability.

This Board understands that management programs of the past need to be updated, however a hands off approach has left our community without adequate service levels and forests in an unhealthy state. The O&C Act is very clear and should be balanced by other goals, but not to the degree provided in the proposed alternatives. The extensive reserve program that is proposed

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and the "hands off approach" has shown not to be effective in restoring populations of Northern Spotted Owl and other species.

We believe it is possible to creatively generate a predictable sustained yield harvest level that will also make adequate provisions to protect critical habitat, watersheds, recreations areas and other resources. Although many of the alternatives provide for some of these priorities, all alternative fall short of the requirement of the O&C Act when it comes to minimum harvest levels.

Harvest levels and annual sale quantities (ASQs) need to be evenly distributed throughout the entire 2.4+ million acres of BLM managed territory. The businesses that rely on this timber also need a dependable source of wood of varied dimension and quality.

The O&C Lands Act also requires that 50 percent of the revenue generated from management of the lands be returned to the 18 counties that contained revested lands. The revenues are divided annually by the percent of the assessed value of the lands in each county as they were in 1915. For decades these revenues provided for vital programs such as libraries and public safety (county jail, rural patrols, DA services, juvenile shelter and detention).

Unfortunately, with the limited amount of time to review the proposed alternatives on this subject, our comments are not complete or fully adequate.

We would finally encourage the agency to exercise its responsibility to coordinate with Josephine County and specifically on the provisions provided within our Coordination Plan that require O&C forest management principles be employed on these lands.

The O&C Task Force established by Governor Kitzhaber reviewed the existing RMP and discovered that the Conservation Community's goals are being reached at 300% and the industry's goal at only 8%.

Board of County Commissioners

K. O. Heck

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Jasmine Benjamin

From: m1allen@blm.gov on behalf of RMPWO_Comments, BLM_OR <blm_or_rmpwo_comments@blm.gov>
Sent: Thursday, August 20, 2015 8:46 AM
To: RMP-Comments@heg-inc.com
Subject: Fwd: Comments of the Association of O&C Counties Concerning the Western Oregon DRMP/EIS
Attachments: AOCC Comments 8-20-15.pdf

---------- Forwarded message ----------
From: **Kevin Davis** [redacted]
Date: Thu, Aug 20, 2015 at 8:41 AM
Subject: Comments of the Association of O&C Counties Concerning the Western Oregon DRMP/EIS
To: blm_or_rmpwo_comments@blm.gov
Cc: Jerome Perez <jperez@blm.gov>, "Haske, Michael" <mhaske@blm.gov>, "Brown, Mark" <m4brown@blm.gov>, director@blm.gov, feedback@ios.doi.gov

Attached are the comments of the Association of O&C Counties concerning the BLM's Western Oregon DRMP/EIS. Hard copies will follow by regular mail for Secretary Jewell, National Director Kornze, Oregon Director Perez, Mr. Haske and Mr. Brown. Thank you for the opportunity to comment.

Kevin Davis
Attorney for the Association of O&C Counties

Association of O&C Counties'
Comments Concerning
the
Bureau of Land Management's Draft Western Oregon
Resource Management Plan/Environmental Impact Statement

August 20, 2015

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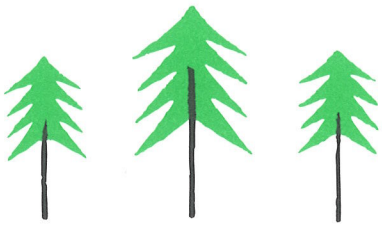

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August 20, 2015

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RMPs For Western Oregon
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Re: Western Oregon Draft Resource Management Plan/EIS Comments

Dear Mr. Perez:

As you know, the Association of O&C Counties (AOCC) represents the interests of Counties in Western Oregon within which lie the BLM managed O&C lands and Coos Bay Wagon Road lands. AOCC member Counties include the 15 Counties that are formal cooperating agencies in the BLM's plan revision process. The AOCC has represented County interests in the management of these lands for nearly 90 years.

As you are also aware, the AOCC has participated extensively in this planning process. One or more AOCC representatives attended every meeting of the Cooperating Agency Advisory Group (CAAG), were members of the CAAG working groups, and attended every public outreach meeting held by the BLM. We participated in a meeting with National Director Kornze and multiple meetings with you. The AOCC commented orally or in writing at every opportunity and in some instances when no opportunity was being afforded. We requested and eventually obtained BLM planning process data that might give us better insight into the BLM's modeling and Alternatives. The AOCC has done its very best to contribute constructively. The comments in this letter are offered in that spirit of cooperation.

We have now reviewed the Draft Resource Management Plan/Environmental Impact Statement (DRMP/EIS) for western Oregon. The summary provided in it was of limited use in understanding the 1500+ pages of content of the DRMP/EIS. In order for the public and elected officials in AOCC member Counties to better understand and compare the Alternatives in the DRMP/EIS, the AOCC commissioned the preparation of our own Side By Side Comparison and

Synthesis of Alternatives, which is attached as Encl. 1. That and all other attached documents are incorporated herein and should be considered part of our comments in response to the DRMP/EIS. Additional comments are as follows:

A. Comment Period.

The public was initially given 90 days from the time the DRMP/EIS was published to analyze the contents. This Association requested an additional 120 days in order to fully analyze and adequately comment on the 1500+ pages of the DRMP/EIS. Similar requests were submitted to the BLM from Oregon's two Senators and three of Oregon's Members of the House of Representatives, more than half the members of the Oregon Legislature, several individual Counties, timber industry trade groups, and an unknown number of others. This outpouring of dissatisfaction with the 90 day comment period by the elected representatives of the citizens who would be affected by the BLM's plans was met with indifference by the BLM until 9 days before the comment deadline, at which point the BLM announced it would allow an additional 30 days to comment, for a total of 120 days (instead of the 210 days requested). The AOCC and all others similarly situated are therefore forced to comment in a time period that is inadequate for the task. We object, but offer comments to the best of our ability.

B. The O&C Act Requires Systained Yield Management as the Dominant Use.

The O&C Act requires that O&C Lands

> "which have heretofore or may hereafter been classified as timberlands, and power site lands valuable for timber, shall be managed . . . for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield . . . ." 43 USC §1181a. (Emphasis added.)

The Act identifies two mandatory actions over which the BLM has no discretion: (1) If it is timberland, it must be included in the timber production base; and (2) if it is in the timber base, it must be managed for sustained yield timber production. There remains, of course, at least some discretion in how the BLM implements the second of these requirements - - - there are a variety of ways to satisfy the requirement for sustained yield timber production. The timing and intensity of sustained yield practices may vary and the BLM may choose how to implement such practices, provided such practices are designed to meet the objectives of the O&C Act.

The 9th Circuit Court of Appeals decision in Headwaters v. BLM, 914 F.2d 1174 (9th Cir. 1990) is the controlling interpretation of the O&C Act and the BLM must follow it. The opinion in that case identifies the purposes, goals and objectives of the O&C Act, which are the guideposts for identifying the extent of the BLM's management discretion. The opinion in that case at pages 1183-84 provides as follows:

- The term "forest production" in the O&C Act means "timber production." Timber production is the "dominant use" for O&C lands.

- "Exempting certain timber resources from harvesting to serve as wildlife habitat is inconsistent with the principle of sustained yield." (Emphasis added.)

- "The purposes of the O&C Act were two-fold. First, the O&C Act was intended to provide the counties with the stream of revenue which had been promised but not delivered . . . Second, the O&C Act intended to halt previous practices of clear-cutting without reforestation, which was leading to a depletion of forest resources." * * * "Nowhere does the legislative history suggest that wildlife habitat conservation or conservation of old growth forest is a goal on a par with timber production, or indeed that it is a goal of the O&C Act at all." (Emphasis added.)

This ruling could not be more clear about the goals and objectives for management of the O&C lands. First and foremost, Congress intended for the O&C lands to produce revenue for the 18 Counties in which the lands are located.

The O&C Act says that timber on the O&C lands shall be managed with the timber thereon sold, cut and removed on a sustained yield basis "for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities." The Headwaters decision makes clear, through reference to the legislative history, that protecting watersheds, regulating stream flows, and providing recreation facilities are the intended outcomes from sustained yield timber management rather than separate goals that can compete with sustained yield timber management. In this regard, Headwaters only confirmed what the Courts had already said on multiple occasions.

For example, recreation is identifed in the Act as one of the expected outcomes of sustained yield timber management. Recreation is not a goal independent of, or in competition with, timber production, nor can recreation be achieved at the expense of timber production. In O'Neal v. U.S., 814 F2d 1285, 1287 (9th Cir. 1987), the Ninth Circuit Court of Appeals held:

> "*** The provisions of 43 U.S.C. §1181a make it clear that the primary use of the revested lands is for timber production to be managed in conformity with the provision of sustained yield, and the provision of recreational facilities as a secondary use. No duty is thereby established to provide for recreational use." (Emphasis added).

In a case involving a dispute over access to timberlands made difficult because of the checkerboard pattern of private and public ownership that is characteristic of the areas that include the O&C lands, the Ninth Circuit said the following about the secondary benefit of protecting watersheds through sustained yield timber production:

> "*** In 1937, Congress declared that these lands were to be managed as part of a 'sustained yield timber program' for the benefit of dependent communities. *** In order to protect watersheds and maintain economic stability in the area, long-term federal timber

yields were guaranteed by limiting the maximum harvest to the volume of new timber growth." United States v. Weyerhaeuser Co., 538 F2d 1363, 1364-65 (9th Cir. 1976) (Emphasis added; citation omitted).

The O&C Lands are not traditional multiple use lands. Instead, the O&C Act makes timber production to produce revenue for Counties the overriding management objective for the lands. Secondary uses, such as recreation and the protection of watersheds and wildlife habitat, are permitted, but they must be accomplished *simultaneously*, in coordination with and not at the expense of, timber production to benefit local communities.

The limits of BLM's discretion are ascertained by reference to the terms of the O&C Act, on its face and as interpreted in the Headwaters decision, as well as by historic interpretations given the O&C Act by the BLM itself. For example, in a 1939 press release, less than two years after the O&C Act became the management mandate, the BLM's predecessor agency had a Chief O&C Forester, the equivalent of the BLM State Director, who described the newly adopted sustained yield forestry program in these words:

> "This assures the continuous production of timber for the employment of Oregon industries without the danger of exhausting the timber supply and without the danger of destroying the tax base of the counties." Press Release, March 31, 1939, W. H. Horning, O&C Chief Forester.

In 1940 the O&C Chief Forester elaborated, saying that "[a]ll the lands best suited for the growing of timber will be retained in public ownership and kept at work producing crops of timber. Continuous production of timber of commercial quality in the largest possible amount is the goal." W. H. Horning, The O&C Lands and their Management, an Important Advance in Forest Conservation (1940).

All of these authorities make clear that the BLM's discretion when implementing sustained yield management is narrowly bounded. The limited discretion under the O&C Act was preserved by Congress in 1976, when Congress passed the Federal Land Policy and Management Act ("FLPMA"), which redefined the management direction for nearly all lands in the United States under the jurisdiction of the BLM, with the telling exception of lands managed under the O&C Act. FLPMA, P.L. 94-579, is a multiple use statute under which all uses for the land are given equal consideration, and the BLM has broad discretion in choosing the mix of uses it will adopt for lands managed under FLPMA. But, Congress specifically preserved the dominance of timber production on the O&C lands by adopting section 701(b) of FLPMA, which says that "[n]otwithstanding any provision of this Act [FLPMA], in the event of conflict with or inconsistency between this Act and the . . .[O&C Act and Coos Bay Wagon Road Acts], insofar as they relate to management of timber resources, and the disposition of revenues from lands and resources, the latter Acts shall prevail."

In 1986 the Interior Solicitor was asked if the BLM had authority to implement a plan for the protection of spotted owls, which then were not listed under the Endangered Species Act. The legal opinion differentiated between lands managed by the BLM pursuant to FLPMA, and

lands managed pursuant to the O&C Act. The Solicitor's opinion describes the difference as follows:

> "The freedom conferred on the Secretary under FLPMA is limited in one important way on certain federally-owned timberlands in western Oregon. There, any decision about managing northern spotted owls must be measured against the dominant use of timber production. * * * In deciding whether to establish a program for managing northern spotted owls on O&C timberlands, the Secretary, then, must decide if it is possible to do so without creating a conflict with the dominant use there—timber production. If the Secretary can manage northern spotted owls and still produce timber on a sustained yield basis in the O&C timberlands, the O&C Act in no way will preclude him from making that choice. * * * The converse, of course, also obtains. If a program for managing northern spotted owls conflicts with producing timber on a sustained yield basis in O&C timberlands, the O&C Act will preclude the program's application to that realty." Gale Norton and Constance Harriman, Associate Solicitors, Memorandum to James Cason, Deputy Assistant Secretary for Land and Minerals Management (October 28, 1986).

The northen spotted owl was listed as threatened under the Endangered Species Act (ESA) in 1990 and prior to 2007, it was presumed that the ESA "trumped" the O&C Act in some respects. Specifically, it was presumed that the O&C Act mandate to manage all timberlands for sustained yield had to stand aside to the extent such management might be inconsistent with the ESA's section 7(a)(2) requirement that "each Federal Agency shall, in consultation with . . . [the Secretary of Interior or Commerce] insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined . . . to be critical . . . ." 16 USC §1536(a)(2). Prior to 2007 it was presumed that the creation of permanent reserves from which timber was not harvested, otherwise impermissible under the O&C Act, might be permitted if necessary to avoid jeopardy to a listed species. The corollary presumption was that O&C lands, if designated as critical habitat under the ESA, could be withdrawn from timber production and placed in reserves for the benefit of listed wildlife species. All of these presumptions were wrong.

In June 2007, the United States Supreme Court reversed the 9th Circuit Court of Appeals in a case that limits the scope of the ESA. The case did not involve the O&C Act, but its holding directly affects the extent to which the BLM may respond to the "no jeopardy" and "no adverse modification" requirements of the ESA. The key holding in the case is as follows:

> "§7(a)(2)'s no-jeopardy duty covers only discretionary agency actions and does not attach to actions . . . that an agency is <u>required</u> by statute to undertake once certain specific triggering events have occurred. This reading not only is reasonable, inasmuch as it gives effect to the ESA's provision, but also comports with the canon against implied repeals [of other, earlier, conflicting legislation] because it stays §7(a)(2)'s mandate where it would override otherwise mandatory statutory duties." <u>Natl. Ass. of Homebuilders v. Defenders of Wildlife</u>, 551 U.S. 664, XXX (2007). (Emphasis in original.)

This holding specifically controls the scope of the ESA's "no jeopardy" requirement, but it should also be read to control the scope of the "no adverse modification" requirement, since both requirements are in the same sentence of ESA §7(a)(2).

This Supreme Court decision affects the legal framework for the development and selection of alternatives by the BLM. Since the O&C Act says all timberlands must be managed for sustained yield timber production, the BLM may not create permanent reserves on O&C or CBWR lands to avoid jeopardizing a listed species, or to avoid adversely modifying critical habitat, since section 7(a)(2) of the ESA does not impliedly repeal the O&C Act's nondiscretionary mandate to implement sustained yield forestry on all timberlands.

What remains subject to §7(a)(2)'s "no jeopardy/no adverse modification" requirement is the BLM's exercise of discretion in choosing the particulars and timing of the sustained yield timber management it will employ. The BLM can and must seek to avoid jeopardy and adverse modification, but its effort in that regard must be consistent with the discretion allowed it under the O&C Act. Similarly, the BLM may only use its discretionary authority in contributing to the recovery of listed species pursuant to §7(a)(1) of the ESA. Thus, the limitations on the BLM are the same for both contributing to recovery and avoiding jeopardy under the ESA---the scope of discretion under the O&C Act limits and defines the BLM's obligations under the ESA. The BLM must *simultaneously* seek to achive the goals of the ESA and the O&C Act. The DRMP/EIS shows the BLM has ignored this obligation.

C. The O&C Lands are Subject to a Mandatory Minimum Harvest Level.

There is a continuing debate about the O&C Act's minimum harvest level. The O&C Act, 43 U.S.C. §1181a says the following:

> "The annual productive capacity for such lands shall be determined and declared as promptly as possible after August 28, 1937, but until such determination and declaration are made the average annual cut therefrom shall not exceed one-half billion feet board measure: *Provided*, That timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained yield capacity when the same has been determined and declared, shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market." (Italics in original, underlining added.)

This language equates the "sustained yield capacity" with the "annual productive capacity"---the two terms refer to the same thing. "Sustained yield capacity"---the annual productive capacity---is determined primarily by reference to biological factors associated with tree growth and mortality on all lands classified as timber lands. In 2008, the BLM determined that the sustained yield capacity of the O&C lands was 1.2 billion board feet per year. As discussed below in these comments, the BLM has failed to make a determination regarding the current sustained yield capacity of the O&C lands, but it is nevertheless clear it is in excess of 1.2 billion board feet per year. Thus, the language of the Act states that minimum harvest level is either one-half billion (500 million) board feet per year, or such greater amount as indicated by the sustained yield capacity of the lands.

In Portland Audubon v. Babbitt, 998 F.2d 705 (9th Cir. 1993), one question presented was whether an injunction on timber sales pending compliance with NEPA was appropriate. The BLM argued that a temporary injunction to remedy a NEPA violation would prevent it from achieving the minimum harvest level of 500 mmbf, which the BLM argued was compelled by statute. The 9th Circuit said that the O&C Act "has not deprived the BLM of all discretion with regard to either the volume requirements of the Act or the management of the lands entrusted to its care." The Court rejected the BLM's argument that an injunction pending NEPA compliance should not be imposed, based on the Court's understanding that NEPA "applies to all government actions having significant environmental impacts, even though the actions may be authorized by other legislation." Id. at 709. That interpretation of NEPA may no longer be correct with regard to nondiscretionary actions or where there is lack of authority to act on information that an EIS might reveal. See Dept. of Transportation v. Public Citizen, 541 U.S. 752 (2004). Moreover, the 9th Circuit's statement in Portland Audubon about the BLM having at least some discretion under the O&C Act does not answer the question about how much discretion exists, nor does it answer the question about minimum harvest levels that the BLM must achieve under the Act. The Portland Audubon case only stands for the narrow and unremarkable proposition that, in achieving the goals of the O&C Act, the BLM must comply with NEPA.

As acknowledged above in these comments, the BLM has discretion to determine the nature of sustained yield management it will employ to achive the objectives of the O&C Act, the foremost of which is to produce revenue that is shared with Counties pursuant to 43 U.S.C 1181f. The O&C Act sets an absolute limit to the BLM's discretion to lower annual harvest levels in order to achieve the secondary uses identifed in the O&C Act and to achive the goals of the ESA. The BLM must seek to *simultanously* achive these sometimes competing goals, but in no event may the BLM lower harvest levels below 500 million board feet (mmbf) per year.

D. The BLM Failed to Calculate the Annual Productive Capacity of O&C Timberlands.

For the first time since 1937 in planning for management of the O&C lands, the BLM has refused to calculate the annual productive capacity of the O&C lands. During the course of the planning proces the AOCC requested numerous times that such a calculation be made. The BLM's refusal is a violation of the O&C Act, and of NEPA. The AOCC now demands that such a calculation be made with the results and an analysis of them published in a supplemental draft EIS.

The AOCC does not contend that the BLM must adopt a plan that would harvest the annual productive capacity of the lands, but information about the capacity of the lands is essential to the measuring the environmental impacts of that level of harvest, as compared to the environmental impacts of less intensive management that may be within the discretion of the BLM. The BLM and the pubic cannot know the environmental value of incremental departures from the maximum without calculating and analyzing the capacity of the lands, and likewise are unable to determine if the forgone economic values might outweigh marginal environmental benefits.

The 2008 reference analysis to "manage most commercial lands for maximizing timber production" reported an annual harvest level of 1.2 billion board feet and this figure is cited in the DRMP/EIS. (DRMP/EIS, page 262.) The 2008 reference analysis was based on 2006 forest inventory data and obviously did not consider the most recent forest inventory data and other relevant new information and did not utilize harvest calculations that are commensurate with the methods applied in the current BLM Alternatives. The 2008 projection of 1.2 billion board feet per year is no longer accurate---the current number is almost certainly greater.

The 2008 reference analysis applied Culmination of Mean Annual Increment standards to limit the minimum harvest age to between 85-155 years of age. The current modeling applied a minimum harvest age of 50 years in most Alternatives. The 2008 reference analysis used scenario based modeling which uses average prescriptions/yield curves in a deterministic method. The current optimized modeling seeks the highest possible volume output from a range of prescriptions/yields. Personal communications with the current modeling team indicate the method for estimating site productivity employed new methods that increased the overall productivity, especially in the northern Districts. The District-by-District percentage by site class was reported in the DRMP/EIS, but it was not disclosed how this new methodology resulted in an increase of this very important inventory variable. (DRMP/EIS, page 997.) The limited time allowed by the comment period did not permit explorations of the BLM data to quantify the magnitude of this change. Increases in productivity alone would increase the outcomes of the 2008 reference analysis. Applying optimization in the modeling and allowing lower minimum harvest ages would further increase this estimate.

This DRMP/EIS did report even aged timber production rates, board feet/acre/year, for the Northern and Coastal Districts and the Southern Interior Districts. (DRMP/EIS, page 263.) A conservative simplistic estimation applying these rates to the land base and excluding Congressionally and Administratively Reserved lands plus an additional 10% in the north and 15% in the south for lands not suitable for timber production, existing recreation sites, etc., results in an estimate of 1.33 billion board feet – over a 10% increase. Modeled results with current methods and agreement of what is counted as "Timber Lands" would likely be higher than this simplistic estimate.

The determination of the sustained yield capacity is an important base line to be used in assessing Alternatives for management of the O&C lands. It provides a key baseline to judge each sustained yield unit for the percentage of the capacity that a proposed strategy provides and the degree conservation objectives constrain that capacity. Given the draft Alternatives are shifting the regional distribution of the harvest, this baseline is needed to fully understand this change. Constructing a model requires assembling information on the productivity of the land, the current state of the inventory, and how that forest grows over time. In constructing the model it would be a normal quality control step to let the model run with a maximum implementation of the prescriptions/yields. It is very likely this was performed by the BLM but they have not disclosed this key base line, which was requested by AOCC on multiple occasions.

E. A Defective Purpose and Need Statement Illegally Restricts the Range of Alterntives.

The AOCC repeatedly objected to the BLM's Purpose and Need Statement (PNS) at earlier stages in this planning process. In spite of revenue for Counties being the primary purpose of Congress in adopting the O&C Act, the PNS fails to even identify revenue production as an objective. Among numerous examples of the AOCC's objections, attached hereto as Encl. 2 is a letter dated June 27, 2013, in which the AOCC sought a meeting to voice its objections to the then draft PNS. The letter outlined the basis for the objections and concludes:

> "Wildlife-related and recreation objectives must be achived in *coordination* with producing revenue for the Counties, and not at the expense of that primary objective. Instead of seeking *simultanous* satisfaction of objectives, however, the BLM PNS gives widlife-related and recreation objectives precedence in every conceivable way." (Italics added.)

The requested meeting was held after which the BLM refused to modfy the draft PNS. As a result, the PNS has it all backwards. Instead of requiring the *simultaneous* achivement of the primary purposes of the O&C Act and the secondary objectives of promoting wildlife and recreation, it seeks satisfaction of secondary objectives first and without regard to timber production, relegating the Congressionally mandated goal of timber and revenue production to the last, on whatever land might be left over.

This was followed by a letter dated March 26, 2014, attached as Encl. 3, in which the AOCC expressed its objections to the planning crteria and the then proposed, very narrow range of alternatives, which were the inevitable result of a defective PNS. It includes the following:

> "The preliminary alternatives outlined with the Planning Criteria do not include any option that is consistent with the O&C Act, nor is the range of alternatives broad enough to test the extent to which potentially conflicting outcomes can be reconciled. This is a predictable consequence of the Purpose and Need statement, which has turned the O&C Act upside down, leaving economic considerations to the last, after every other consideration has been satisfied. Sustained yield of timber, under both the Purpose and Need and the Planning Criteria, is treated as a residual from lands that are left over after all other objectives are met. There appears to be no intent to try to optimize all values *simultaneously*. As a consequence, economic concerns will inevitably be given short shrift.
>
> "With all action alternatives clustered around preservation-oriented outcomes, there will be no examination of a reasonable range of alternatives that would disclose how to efficiently produce acceptable levels of environmental protections, while *simultaneously* producing economic benefits required by the O&C Act. This skewed and limited range of alternatives deprives the agency and the public of both information and meaningful choices, in violation of the National Environmental Policy Act. The Association of O&C Counties asks the BLM to stop and reconsider, as the path chosen is one of inevitable conflict between the BLM and the Counties that are intended by law to benefit from management of the O&C lands." (Italics added.)

The PNS is inconsistent with the BLM's Notice of Intent to Revise Resource Management Plans (NOI) (Fed. Reg. Vol. 77, No. 47, pp. 14,414-416, March 9, 2012). The NOI got it right, in that it says BLM planning for these lands must "conform" with the O&C Act, and at the same time it must "comply" with the ESA and other regulatory statutes:

> "The Federal Land Policy and Management Act of 1976 (FLPMA) requires the development, maintenance, and revision of land use plans. The vast majority of the BLM-administered lands in the planning area are Revested Oregon and California Railroad (O&C) lands, or Reconveyed Coos Bay Wagon Road (CBWR) lands, and are managed under the statutory authority of the Oregon and California Revested Railroad Lands Act of 1937 (O&C Act, Pub. L. 75-405) and FLPMA (43 U.S.C. 1701 et seq.). Preparation of the RMPs and EIS will *conform* to the above land management laws and will also *comply* with other Federal laws, including, but not limited to the Endangered Species Act (ESA), the Clean Water Act, and the National Environmental Policy Act." (Italics added.)

The choice of words in the NOI is not random, it is a correct expression of the approach to planning that is legally required: The O&C Act is the overarching authority with which the BLM planning for these lands must conform, and the ESA and other statues provide compliance objectives that should be achieved within that overarching authority. The tail must not wag the dog. Nevertheless, the PNS reverses the order, and renders the O&C Act a near nullity, giving sustained yield timber production only begruging aknowledgement as a remnant, and not even mentioning the production of revenue for counties as an objective.

The AOCC renews its objections to the PNS and renews its request that the BLM include revenue production as an objective in the PNS and expand the range of alternatives anlyzed and considered so that they include alternatives that are consist with the law and these comments.

F. BLM's Description of the Dispute and the Position of the Counties is Incorrect.

At page 868 of the DRMP/EIS, the BLM attempts to describe the extant disagreement between it and the Counties, and in the process mistates the position of the Counties. The Counties reject the BLM's description. Among other things, the BLM says the Counties insist on having the minimum harvest level of 500 mmbf produced first, before other objectives are considered: "The Association of O&C Counties maintains that the O&C Act and legal opinions that have stemmed from it mandate that the BLM should first provide a minimum of 500 million board feet of sustained yield timber harvest per year, then balance all other needs after that has been provided." That is not a correct statement of the AOCC's position. The AOCC on behalf of the Counties has consistently and repeatedly asserted that the BLM must *simlutaneously* achieve all objectives. It is not timber first and everything else later, it should be a *coordinated* effort to satisfy sometimes competing goals.

Attached hereto as Encl. 4 is a statement that was delivered orally to the BLM at a meeting of the Coordinating Agency Advisory Group on February 19, 2015. A hard copy was then provided to the BLM with a request that it be retained in the administrative record of the planning process. The statement was a summary of the points the Counties had previously

expressed on many occasions and it three times calls for analysis of alternatives that seek to *simltaneously* achieve objectives. It goes consideraby further and offers multiple examples of specific strategies for seeking *simultaneous* satisfaction of objectives, none of which the BLM analyzed or considered in the DRMP/EIS. The BLM and the public do not know the extent to which these strategies will work, because the BLM made no attempt to find out.

G. General Comments Regarding the DRMP/EIS.

1. Overlay of Excessive Owl Protections on Top of USF&W Critical Habitat and Recovery Plan Without Determination of Need.

a. Summary and Key Points.

"The challenge of managing public lands can reveal significant disagreements in jurisdictions and mandates, not only among Federal, State, local, and tribal governments but also among different Federal or State agencies. The Cooperating Agency relationship offers a forum in which to discuss and, if possible, reconcile divergent policies and plans for the common good." (BLM Desk Guide to Cooperating Agency Relationships.)

It is unlikely any of the BLM's Alternatives will provide the harvest levels projected for them given the spotted owl Recovery Plan and Critical Habitat designation, which are likely to result in restrictions greater than disclosed in the DRMP/EIS. Below is a brief history and summary of information on the overlay of Critical Habitat that is not disclosed in the DRMP/EIS. The DRMP/EIS did reveal the significant potential effects of some Recovery Plan actions particularly related to management of owl sites. The Preferred Alternative B does not protect spotted owl sites as recommended in the Recovery Plan. Recent rule making related to incidental take at the plan level will not provide certainty in the likely event that additional restrictions on harvest are applied during project level consultation. These multiple layers of regulations and restrictions prevent the predictably BLM has claimed will result from the planning process.

b. Context.

i. RMP and Spotted Owl Critical Habitat /Recovery Plan.

In 2008 the BLM's RMPs and USF&WS's spotted owl recovery plan and designation of spotted owl critical habitat were in alignment, providing consistency with one set of management guidelines for the O&C forest lands. This consistency was never allowed to be implemented.

A revised Recovery Plan (RP) was issued in 2011. The RP recommended significant changes to the framework of the Northwest Forest Plan (NWFP) by recommending single species management of owl sites and retaining substantially all of the older more structurally complex forest. This was a significant departure from the "Ecosystem Management" approach upon which the NWFP was based. There was no public disclosure of the potential economic implications of these significant changes. The RP Recovery Actions are "advisory recommendations" but the Federal Agencies have followed them in the design of projects

through avoidance of occupied sites and older forest to move projects through the USF&WS consultation process.

Spotted Owl Critical Habitat (CH) was designated on 53% of the BLM forest in western Oregon in 2012. There was an economic analysis conducted on the "incremental effect" of this designation. This analysis was based on the assumption that RP Recovery Actions were in place as part of the "Without CH Baseline" and thus were not part of the incremental effect. Using the baseline of the NWFP with the RP, the economic analysis indicated the "Negative Impact Scenario" (most pessimistic) would have an annual harvest reduction of 25 mmbf for all federal lands. No specific agency breakdowns were provided. BLM administered lands are 10% of federal lands under the NWFP. In the designation of CH there was no recognition of or consideration for the unique mandate of the O&C Act applicable to the O&C lands.

- "Our analysis indicates that the proposed revision of critical habitat, as informed by the Revised Recovery Plan for the Northern Spotted Owl (76 FR 38575; July 1, 2011), is anticipated to have little incremental effects above and beyond the conservation measures already required as a result of its threatened status, and thus is expected to impose minimal additional regulatory burden." (CH Economic Analysis, ES-3.)

- "The potential impact of the designation of critical habitat on timber harvest levels, and whether that change will be positive or negative, is uncertain. Therefore, how critical habitat designation—and the adoption of ecological forestry practices—may impact the timber industry in terms of future harvest levels, employment, and revenue-sharing payments to counties is also uncertain." (CH Economic Analysis, 6-10 #319.)

- "According to the Revised Recovery Plan, unoccupied and non-structurally complex NSO habitat in the matrix is still expected to be managed for timber production. For these areas the Revised Recovery Plan recommends implementing ecological forestry techniques, including avoidance, to retain and develop structurally complex forests in the future to benefit the NSO, which represents a potential incremental effect of the proposed designation. As stated previously, the only legal obligation of the land managing agencies is to avoid the destruction or adverse modification of critical habitat on a project-by-project basis." (CH Economic Analysis, 4-4.)

ii. Presidential Memorandum – Proposed Revised Habitat for the Spotted Owl: Minimizing Regulatory Burdens (February 28, 2012).

- Executive Order 13563 of January 18, 2011 (Improving Regulation and Regulatory Review), explicitly states that our "regulatory system must protect public health, welfare, safety, and our environment while **promoting economic growth, innovation, competitiveness, and job creation.**" (Emphasis added). Consistent with this mandate, Executive Order 13563 requires agencies to tailor "regulations to impose the **least burden on society**, consistent with obtaining regulatory objectives." (Emphasis added.)

- "Consistent with the ESA and Executive Order 13563, today's proposed rule emphasizes the importance of flexibility and pragmatism. The proposed rule notes the need to consider "the economic impact" of the proposed rule."

- "Develop clear direction, as part of the final rule, for evaluating logging activity in areas of critical habitat, in accordance with the scientific principles of active forestry management and to the extent permitted by law."

- Executive Order 13563 states that our regulatory system "must promote predictability and reduce uncertainty."

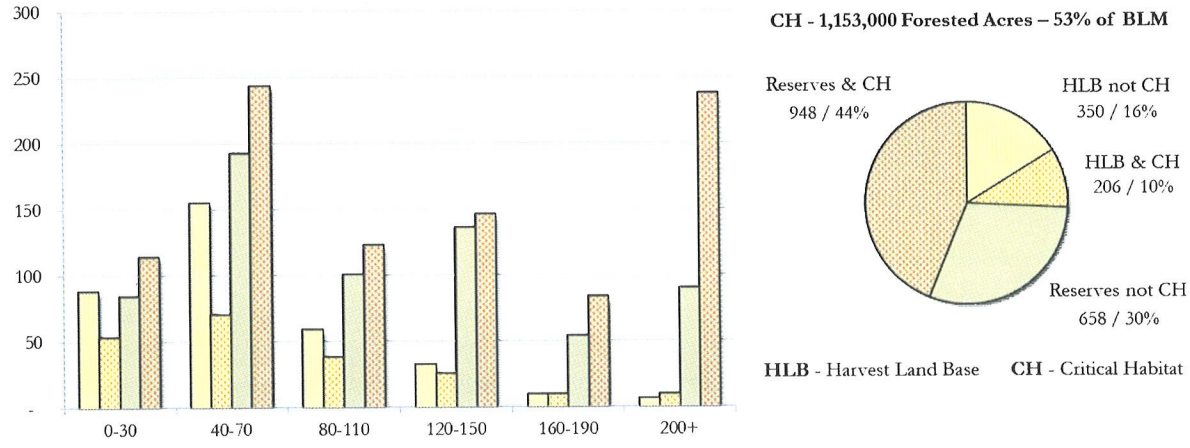
- "Uncertainty on the part of the public may be avoided and public comment improved, by simultaneous presentation of the best scientific data available and the analysis of economic and other impacts."

The directions provided by this Executive Order were not fulfilled by the USF&WS and continue to be unresolved by the BLM in this planning process.

c. DEIS Alternatives – Spotted Owl Critical Habitat.

The BLM DEIS failed to disclose basic information on the overlay of spotted owl CH with the allocations of the Alternatives to inform the public on the magnitude of the potential area that could be affected by this dual layer of regulations.

Graphic 1 - Preferred Alternative B – Age Classes by Allocations
(Thousands Acres)



206,000 acres of the Harvest Land Base (HLB) is designated as CH, which is 35% of the land base allocated for sustained yield timber production.

83,000 acres of the HLB designated as CH are in stands 80 years and older and is both owl habitat and the source of mature forest for the near term harvest. Much of this acreage is in southwest Oregon. Under the ecological forestry management guidelines described in the CH

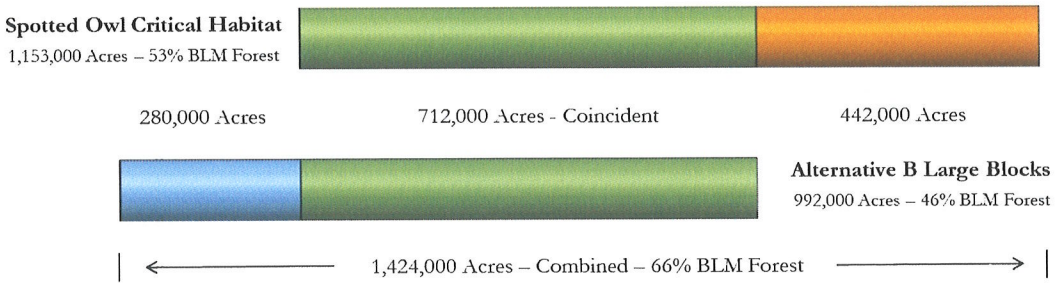
rule it is questionable if these lands will be managed under the principles of sustained yield after resiliency treatments are performed.

123,000 acres of the HLB designated as CH are in stands less than 80 years. Much of this forest is located in the northern and coastal Districts in which the 70-year age class is a major source of the harvest in the early decades under the BLM Alternatives. BLM has adopted retention levels of 15-30%, similar to Johnson and Franklin ecological forestry under Alternative B for these lands. There is no basis for concluding this higher level of retention would have a positive outcome for owls at the landscape scale, at the extent to which such retention would be implemented by the BLM.

- "In our proposed rule, we provided a description of ecological forestry management actions that are compatible with both northern spotted owl recovery and timber harvest, as recommended in the Revised Recovery Plan for the Northern Spotted Owl (76 FR 38575; July 1, 2011), which, in some areas, may actually increase harvest relative to recent realized levels (but not necessarily to planned levels under the NWFP). While it is outside the purview of the Service to direct forestry management, we will consult with Federal action agencies and make recommendations on the best measures to provide protections for the owl and have minimal negative economic impacts." (CH Economic Analysis, ES-3.)

- "The final rule provides no descriptive or quantitative link between "ecological forestry" practices and "those physical and biological features" that are both essential to northern spotted owl conservation and can be evaluated across the planning area. The BLM determined that its evaluations of northern spotted owl Issues 1 through 4 are more relevant to the question of northern spotted owl conservation, than a separate analysis of the means it would use (specific ecological forestry prescriptions) to foster conservation." (DRMP/EIS, Page 825.)

Graphic 2 - Comparison of Critical Habitat and Alternative B Large Blocks



Comparing the gross area of CH and Alternative B large Block network illustrates significant differences in the designs of these two designations.

The modeling work done by USF&WS, in development of the CH rule, utilized static current vegetation conditions and did not utilize the data on BLM lands that incorporated the

effects of habitat developing over time. The Service did not apply the long-standing size and spacing criteria in the design of CH; thus it is more extensive than the Alternative B design.

The modeling work done by the BLM is superior to the work done by the Service because it incorporates the projection of habitat over time. The BLM also used sophisticated GIS analysis to design networks where blocks of the highest quality habitat will develop on the checkerboard in the shortest amount of time consistent with size and spacing criteria.

Although not to be considered an endorsement of the Alternative B Large Block design, the BLM design has demonstrated an effective spotted owl network that is smaller than the CH designation.

BLM's Alternative B design and modeling has identified 280,000 acres of land where large blocks can develop most rapidly that were not incorporated into the CH design. Conversely, the BLM design has identified 442,000 acres that were included in the CH design that is not essential for an effective large block network.

The combined area encompassing the CH designation on top of the BLM Large Block design under Alternative B would be 1,424,000 acres or 66% of BLMs forest.

d. DEIS Analytical Results Related to Critical Habitat – All Alternatives

- "Under all alternatives, the BLM would manage its lands, including those in critical habitat, in a manner that contributes to a landscape in the planning area that meets northern spotted owl recovery goals and long-term ecosystem restoration and conservation." (DRMP/EIS, page 824.)

- "BLM-administered lands in the planning area, including those in critical habitat units, currently contribute to a western Oregon landscape that supports large blocks of contiguous late-successional forest... in all areas except the northern half of the Oregon Coast Range Physiographic Province. In addition, under all alternatives, during the next 50 years, the BLM would continue to contribute to the support and expansion of these large habitat blocks." (DRMP/EIS, page 824.)

Alternative A - The large block network was based on all CH designations, which was the major reason the lands allocated to sustained yield was only 14%. If the effects of Recovery Action 10 were incorporated under this Alternative it is presumed the sustained yield land base would be approximately 7-9% of BLM lands. This Alternative illustrates why the extensive nature of the spotted owl CH designation combined with the restrictions of the Recovery Actions result in unacceptably low amount of the O&C forest allocated to sustained yield.

Alternative B – Described in detail above.

Sub Alternative B - This sub-alternative precluded harvest of suitable habitat within all known and historic spotted owl sites (median home range). This illustrates the general magnitude effect of adhering to Recovery Action 10. Alternative B allocated 26% of the BLM forest to sustained

yield management, which would be reduced to 14% by protecting all sites. Harvest levels would correspondingly be cut in half. This sub-alternative illustrates why application of single species management on top of an extensive reserve network result in unacceptably low amount of the O&C forest allocated to sustained yield.

Alternative C – Spotted Owl Critical Habitat encompasses 44% of the HLB under Alternative C. BLM assessed the number of spotted owl sites within Critical Habitat that would meet or exceed Recovery Action 10 thresholds under the Alternatives. The trend for both Alternative C and B is upward. After 100 years ~ 1,210 sites under Alt C would meet Recovery Action 10 Thresholds as compared with ~1,275 under Alternative B. This reflects two approaches for positive change with Alternative B being only 5% higher. The Large Block design under Alternative C is 835,000 acres, 28% smaller than CH. The BLM analysis of Alternative C indicate that positive outcomes for conservation objectives can be met independent of the additional restrictions of the Recovery Plan and Critical Habitat. Current regulatory restrictions at the project level consultation would not likely approve the extent of clear cuts under Alternative C despite the BLM analytical findings at the plan level scale.

Alternative D – Alternative D reduces the intensity of sustained yield management based largely on the area within CH under an "Owl Habitat Timber Area" that focuses on maintaining owl habitat on all acres at all times in this designation. Not only is the harvest level unacceptably low it is combining the excessive extent of CH with a very broad based definition of older forest to be reserved, a full site potential tree riparian reserve applied on all streams, and single species management of existing spotted owl sites. This is not consistent with the Notice of Intent for the RMP where meeting ESA objectives would be based on a compliance standard. This Alternative far exceeds needs for compliance with ESA and it ignores court-approved interpretation of the term "dominant use."

e. Incidental Take - Consultation at the Plan level.

A rule published on May 4, 2015, clarified that the USF&WS and National Marine Fisheries Service do not need to issue an incidental take statement for some federal planning decisions that anticipate future harm to protected species, but do not authorize any specific projects that would cause impacts. This leads to greater uncertainty as to the level of restrictions that will be placed during project level consultation and increased avoidance by the BLM in the design of projects before project consultation occurs. The declaration of the sustained yield harvest level is only valid if all constraints have been incorporated. It is unknown what level of constraint will result at project level consultation in terms of avoidance, reduced acreage available for harvest, or harvesting at lower intensity than assumed in the RMP.

f. Lack of Certainty

- "The BLM will develop action alternatives to provide a high degree of predictability and consistency about implementing land management actions and a high degree of certainty of achieving management objectives (desired outcomes), especially those outcomes related to discrete statutory mandates." (DRMP/EIS, page 12.)

- Executive Order 13563 states that our regulatory system "must promote predictability and reduce uncertainty."

If BLM were to adopt a management plan that merely conformed to the existing regulatory policies of the spotted owl RP and CH, the levels of sustainable harvest would be lower than any alternative BLM has analyzed. The BLM analysis has established that the RP, if fully adhered to, will have a substantial impact on sustained yield management on the O&C lands that was not previously revealed publicly. The BLM analysis indicates smaller large block designations can provide for effective networks for conservation needs of the spotted owl than prescribed by the current CH designation. The BLM data and analytical methods, specific to the O&C forest, are superior to the methods utilized by USF&WS in designing CH.

Plan level consultation is likely to leave many fundamental questions on what levels and types of management practices will be permitted in project level consultation. On the very small sustained yield land base of the BLM Alternatives, any departure from the assumptions on the lands available for harvest or the intensity of harvest will quickly undermine the declared harvest levels. The USF&WS leaned heavily on poorly defined ecological forestry principles for management guidelines related to the RP and CH, which the BLM has dismissed in not providing a quantitative link between management and the physical and biological features that are essential to northern spotted owl conservation.

g. Conclusions Regarding Excessive Owl Protections.

The BLM analysis demonstrates there are sustained yield strategies that are more clearly defined and that can produce good conservation outcomes with less regulatory burden than current USF&WS policies. The BLM's current range of Alternatives has not assessed the full range of sustained yield strategies to define what is possible for both economic and conservation objectives. The directions from the President in Executive Order 13563 (discussed above at pages 12-13) were not fulfilled by the USF&WS and those failures are perpetuated in the DRMP/EIS by piling one excessively protective plan on top of another.

The regulatory policy changes and land use planning since 2009 are leading to an administrative repeal of the O&C Act and treating sustained yield management as a byproduct. The combination of the extensive designation of CH, restrictions imposed by the RP, and the extensive application of reserves under the BLM Alternatives do not recognize the basic premise in law that the O&C forest shall be managed for permanent forest production under the principles of sustained yield. It is up to either Congress or the Secretary of Interior to redirect the current planning process so that one clear set of management guidelines based on actual conservation needs for compliance with ESA can be applied. The O&C Forest can be managed to promote economic growth and job creation at much higher levels and still meet the conservation objectives than the current regulatory environment will permit.

H. Modeling and Harvest Estimation Concerns.

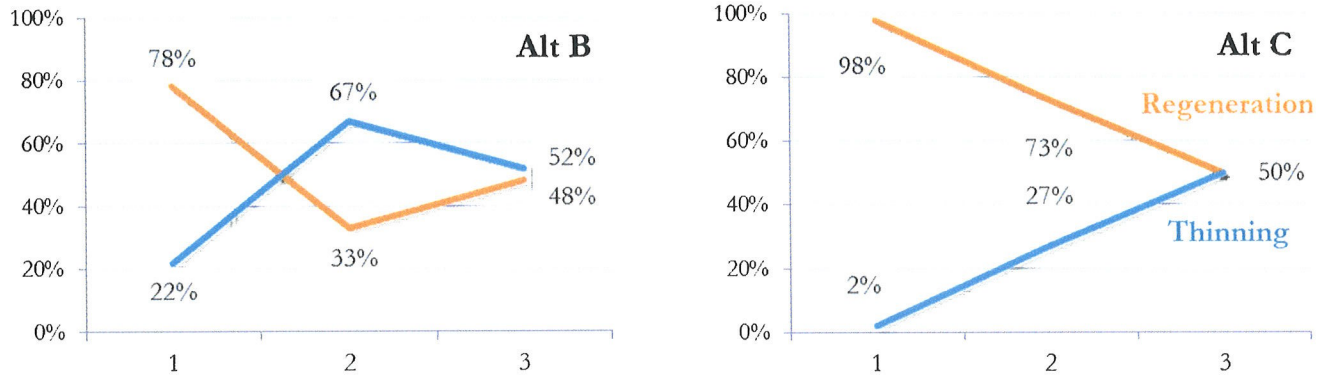
AOCC has concerns regarding the BLM's modeling of the Alternatives to estimate harvest acreage and volume by various harvest types. The way the modeling was conducted,

similar Alternatives by design had different ratios of thinning and regeneration harvest applied to them, which can sway subsequent analysis. The use of optimization is resulting in large swings decade to decade in the mix of thinning and regeneration harvest, which unless rigorously followed in implementation would undermine the basis for the projected harvest levels. The design of the Alternatives has resulted in very little mature forest being available for harvest in the near term. This has caused a departure from long standing policy to conduct harvest at or above maturity criteria. This results in conducting regeneration harvest of more acres of younger stands, which is not readily revealed in the DRMP/EIS. The BLM failed to disclose maps of the modeled harvest. These maps provide context to make visual comparison between the Alternatives on the extent of harvest. Transition to implementation will begin within a year under the current BLM schedule. The modeling and subsequent analyses assume full implementation the day the Record of Decision is signed. Realistic transition assumptions need to be incorporated into the harvest modeling because they affect all the subsequent analysis and the outcomes in the near term.

1. Comparability - Alternatives B and C.

The basic design of these two alternatives is similar, with un-even aged management, plus a mix of regeneration harvest, with and without retention, and thinning prescriptions. Outside of the uneven aged management areas the percentage mix of regeneration harvest and thinning varies between these alternatives. This area is the source for the majority of the timber volume projected for these Alternatives.

Graphic 3 – First Three Decades Mix of Modeled Harvest Types



This difference in the ratio of harvest types between two similar designs in Alternatives B and C influences the outcomes of the subsequent analysis for economics, spotted owls and any other analysis relying on the vegetation modeling. This difference in the approach to the modeling is not revealed in the DEIS and may have significant influence on the projected outcomes.

Previous modeling for the development of earlier BLM RMPs attempted to project an even ratio over time of the harvest types. Previous alternatives using this standard in the modeling projected a mix of generally 80% regeneration to 20% thinning. The optimization within the modeling used by the BLM for this DRMP/EIS "produced a solution with the highest possible level of timber volume production" by selecting from hundreds of different

prescriptions to be applied to an individual stand. (RMP/DEIS, page 1026.) The harvest projections are reliant on the assumptions used in the modeling. If implementation does not follow these shifts in the ratio of regeneration and thinning and optimal prescriptions, it undermines the sustained yield strategy and will result in different outcomes for all of the other resources that are based on the vegetation modeling. BLM has no recent history demonstrating it can or will follow modeling in implementation, let alone modeling that shifts in emphasis so dramatically over time.

2. Harvest Below Maturity Standards.

The design of the Alternatives reserving most of the mature forest has resulted in BLM departing from long standing policy of harvesting at or above Culmination of Mean Annual Increment (CMAI). This has the effect of forcing the harvest of younger stands, that are not mature, as the source of the near term volume. It takes more acres of harvest of younger stands than it would if the harvest is based on reaching a maturity standard. Alternative C and the 2008 RMP have similar designs but the latter had mature forest available for the near term decades and applied CMAI for maturity criteria. Alternative C modeled regeneration harvest is 94,000 acres during the first decade, while the 2008 RMP was 77,000 acres. A sub alternative analysis in the 2008 EIS examined no harvest of stands 80 years and older and determined a sustainable harvest level, with CMAI maturity criteria, would be 96 mmbf. In the DRMP/EIS, modeling of sub Alternative C with no harvest of stands 80 years and older projects a sustainable harvest level of 332 mmbf. The short timeframe to submit comments did not permit a complete analysis of this differential, and it is assumed that this dramatic increase in the harvest level could only be sustained by a repeated short cycle of harvest of young stands below maturity.

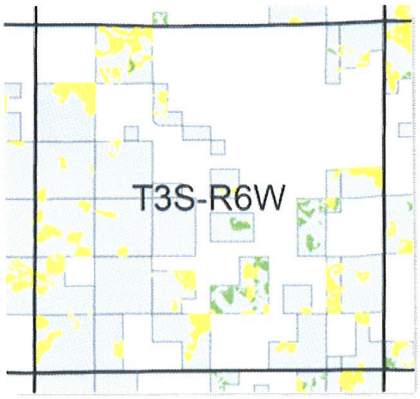
Maturity criteria related to CMAI was not reported in this DRMP/EIS. In previous BLM EISs, CMAI based maturity criteria was determined by species group and site productivity, which ranged from a low of age 85 up to a high of 155 years. (2008 FEIS, page 702.) The new information that has been generated on the increase of productivity would likely extend the timeframes to reach CMAI yet BLM did not recalculate this important baseline. Under Alternative B, one third of the regeneration harvest acres will be in stands in the 50-70 age class during the first three decades. Under Alternative C between 36 and 54% of the harvest acres would come from stands in the 50-70 year age class. Data related to the specific ages of the modeled harvest were not revealed in this DRMP/EIS to inform the public on the degree of harvest of young forest for many decades.

The lack of mature forest available in the short term has additional consequences - "Reserving older forests in the action alternatives would force the BLM to harvest stands less than 80 years old for up to 100 years before transitioning completely to longer rotations." (DRMP/EIS, page 255.) Long rotations allow for the lands allocated to sustained yield management to simultaneously provide spotted owl habitat conditions for many decades while at the same time producing high value timber. The failure to design any of the Alternatives with enough mature forest to support longer rotations from the onset has limited the understanding of the effects of such an approach. This approach has been tested in previous EISs, is an effective approach, and is certainly a reasonable alternative that was not considered due to artificial constraints in the PNS. The design of the Alternatives has prevented the HLB from serving

simultaneous achievement of both habitat and timber production. Alternative D attempted this but failed on an acceptable level of timber production. The design of the current Alternatives produces mostly lower grade logs, which private industrial lands produce in abundance. Longer rotations increase the portion of the harvest of high value grade 1 logs, which has a substantial positive effect on revenue and jobs. The BLM can fill a unique market niche in management of the O&C forest that produces both high quality habitat and high quality and value logs through long rotations. This approach has not been explored in this DRMP/EIS.

3. Maps of Modeled Harvest not Disclosed.

Graphic 4 Modeled Harvest Map



For each of the last three cycles of RMP development, maps were produced to show the modeled harvest for the Alternatives. These maps give simple visual comparison to understand, between Alternatives, the general extent and types of harvest. It is understood these are only a "modeled scenarios" and did not represent the actual location of harvest units for implementation. Such maps do, however, illustrate the assumptions built into the modeling and provide comparable spatial context which simple tabular reporting of acres or volume do not provide. Numerous spotted owl condition maps were provided which are based on this same vegetation modeling data but none were produced of the harvest in the DRMP/EIS.

These scenario maps in previous RMP development were used for review by District implementation staff as a quality control measure of how the alternatives were modeled. Unlike previous efforts, in this planning process, these kinds of maps were not provided even to District staff for review and comment on the modeling. These maps were created – "The Modeling Team took the results from the strata-based models and allocated them back into the spatially explicit GIS polygons that represent the decision area," (RMP/DEIS, page 1026), but never revealed to the public or even the BLM's own District personnel. At the only modeling review meeting provided to the Cooperating Agency Advisory Group, in November 2014, AOCC requested to see these maps and BLM said they would not be provided because they would cause confusion and be interpreted as portraying where harvest was to occur. In the previous 30 years of RMP development, no such confusion has ever presented itself as an issue. The AOCC is certainly not subject to confusion regarding what the maps would represent, nor would be any of the other cooperating agencies.

The modeled scenario maps also can be used to inform on issues related to policy level modeling and the transition to tactical implementation. Under the Alternative B modeling, the regeneration harvest is comprised of 1,995 individual stands in the first decade. Of this total 38% of the stands are small areas of 5 acres or less. When assessed at the section level, 19% of the modeled regeneration harvest units are 200 acres or larger within individual sections. Woodstock is not a spatial model by design but it can have constraints placed on it for minimum and maximum acreage to reflect what is likely in implementation based on these scenario maps.

The failure to disclose these maps has limited both the public's and BLM staff's understanding of how the modeled harvest compares spatially between Alternatives. It is also allows unrealistic assumptions to be built into the modeling with regard to very small stands of doubtful operational feasibility, and concentrations of harvest that exceed what could likely be implemented.

4. Incorporating Transition Assumptions.

Under BLM's current schedule, implementation under the RMPs would commence in the summer of 2016. BLMs recent timber sales continue to rely on unsustainable levels of commercial thinning. Three of the current ecological forestry projects have been delayed to correct NEPA shortfalls by the BLM. Those unfinished projects were intended to demonstrate silvicultural practices similar to the Preferred Alternative B. The current vegetation modeling assumes full implementation levels immediately. Realistically, there will be a transition period to achieve full implementation no matter what strategy BLM adopts. This transition period needs to be incorporated into the vegetation modeling not only for illustrating the volume outcomes but the economic forecasts related to generation of revenue and jobs. Transition strategies may have varied based on Alternatives, but this was not analyzed or disclosed in the DRMP/EIS.

Given the continued decline of Secure Rural Schools payments to Counties and return to timber sale receipts in 2016, the BLM's current modeling that assumes immediate full implementation is not realistic and is harmfully misleading. These forecasts for the next 5 years are critical for the O&C counties as well as the timber industry.

The issues identified above highlight how the current modeling has not provided full disclosure of the harvest strategies of the Alternatives, nor does it provide an accurate portrayal of the outcomes to be expected with implementation. This is both a violation of NEPA and, if not corrected, would defeat the predictability the BLM has claimed the next RMP would provide.

I. Specific Points of Failure and Questions Regarding the DRMP/EIS.

1. Failure to Disclose Issues in the DEIS.

a. Gross Area of Allocations – Hierarchy.

The hierarchical accounting methods for reporting the acreage of the allocations under the Alternatives were not disclosed. BLM data used in the vegetation modeling, obtained through the Freedom of Information Act (FOIA), indicates the following hierarchical order was used in determining the acreage of the allocations:

LUA_B2_HIER	LUA_B2_LBL
1	Congressionally Reserved
2	Administratively Reserved
3	Riparian Reserves
4	Late Successional Reserves
5	East Side Management Lands
6	Harvest Land Base

The description of the Alternatives in the EIS displayed the data as follows, which is different than the hierarchy and is displayed in two different implied orders. (Figure 2-4 and Table 2-5.)

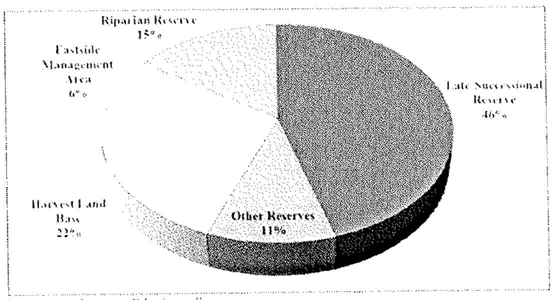


Figure 2-4. Alternative B land use allocations

Table 2-5. [illegible]

Allocation	Acres	Total Acres (%)	Sub-Allocation	Acres	Total Acres (%)
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
			[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]		[illegible]	[illegible]
			Totals	[illegible]	[illegible]

This is both a failure to disclose basic information on the size of the allocations and is misleading on the actual extent. For example:

- **Riparian Reserves** – In the DRMP/EIS and many of the BLM outreach materials, riparian reserves under Alternatives B and C are both portrayed as 15% of the planning area. According to the BLM data used in modeling the gross area (excluding non-commercial forest lands east of Hwy 97), Alternative B is 552,764 acres /24% of western Oregon BLM. Alternative C is 413,158 acres /18% of western Oregon BLM.

- **Large Block Reserves** – It appears that riparian reserves and stand level late-successional reserves were taken out of the hierarchy before reporting the large block late-successional reserves. Reflecting this, BLM outreach materials reported Alternative B large blocks as 594,000 acres and Alternative C as 480,000 acres. According to the BLM data used in modeling the gross area, (excluding non-commercial forest lands east of Hwy 97) Alternative B is 1,052,164 acres /42% of western Oregon BLM. Alternative C is 885,804 acres /38% of western Oregon BLM.

The BLM modeling data obtained by AOCC by FOIA was not part of the data released to the general public. The BLM interactive mapping tools provide no quantification of the data layers for the allocations for the Alternatives.

b. Spotted Owl Critical Habitat.

The extent of the spotted owl CH and the degree it overlays the HLB were not disclosed. Some analysis of the relationship of CH and the HLB was performed by AOCC and is described in section G.1 of these comments. The amount of modeled harvest in CH in the early decades of the plan was not disclosed. Understanding the overlay of critical habitat with the HLB and

modeled harvest is essential for understanding the extent of additional restrictions that may occur during project consultation and implementation.

c. Modeled Harvest Scenario Maps.

As discussed above in section H.3, no maps were made available to the public to show the modeled harvest for the Alternatives. The modeled harvest maps are essential for understanding landscape context, distribution, and intensity of harvest in comparing Alternatives.

d. Access Study.

The BLM has performed a spatial analysis that illustrates the extent to which there is no legal public access to BLM lands in the checkerboard of ownerships. This information identifies lands on which BLM has no capability to provide recreation opportunities. The BLM has highlighted the expansion of recreational opportunities as a primary objective in this planning process and has this information internally, but has not shared it publicly.

2. Data Issues.

The AOCC made reasonable requests for data developed by the BLM for its vegetation modeling once that work was completed. At the CAAG November 3, 2014, modeling results meeting it was noted that the "BLM will meet internally regarding product outputs it is required and planning to produce, and the potential for CAAG input on products and timing for communicating out data and outputs from the modeling. A discussion with CAAG may follow." At the subsequent three CAAG meetings all the way to the release of the DRMP/EIS, the BLM would not say if the data AOCC had requested would be provided. There was no discussion on the kinds of products that would be developed for public release in the CAAG forum. The specific data AOCC requested was not made available with what BLM provided to the public with the release of the DRMP/EIS.

The State Director instructed AOCC to make a FOIA request, which was submitted on April 29, 2015, and the first set of data was provided on May 8, 2015. The first dataset did not contain the Access database requested and that was used by the BLM modeling team. A second dataset was provided on May 20th.

BLM provided more data than was requested and comprised over 1,500 files many of which contained multiple databases with 5-600,000 records. The documentation on the requested information was very sparse, often just a listing of field names and data format with no descriptive text. Some data elements by their names appeared to have a common basis, but upon evaluation of the information they were different with no documentation to explain why. Other data elements were not consistent with reported information in the DRMP/EIS. The data for timber volume needed to have formulas applied to them to derive actual values but this was not explained in any of the documentation. The documentation on the Access databases that were provided indicate the data provided by the BLM was not the same as used by the Inter-Disciplinary Team (IDT) that had been requested. Much of the data and documentation provided by the BLM was in Arc GIS personal geodatabase format. Most of these datasets are so large that the Arc GIS viewing software that is free for public use cannot read this format due to the

size of the data. BLM could have provided this data in more common shape file format that can be read by many free use GIS software packages but did not. The basic software license to read the format in which the BLM provided the data costs over $7,000. That is beyond the budget of AOCC and most of the public. The format in which the BLM provided the DRMP/EIS data precludes most of the public from using it.

The BLM's executive summary lacked even the most basic information on the Alternatives, such as the timber volume by district, revenue, and jobs. It forces the reader to go through the 1,500 page DRMP/EIS to find these basic facts. Substantial time was invested by AOCC working through large databases and the DRMP/EIS to create the Side-by-Side Summary (Encl. 1 to these comments). The FOIA data was essential for creating this summary for elected officials in the affected Counties. It also received wide distribution among the public by other organizations. The AOCC summary received favorable feedback as an appropriate size and comprehensive summary of key facts to inform the public. As noted in these comments, the BLM failed to disclose data on key issues such as spotted owl critical habitat. AOCC's work with the FOIA data provided a deeper understanding of the Alternatives than is revealed in the DRMP/EIS. The limited comment period and costs required do the work the BLM should have done in the DRMP/EIS have not permitted full exploration of the data to reveal additional issues. The data AOCC was forced to obtain by FOIA was essential to making the constructive suggestions for new Alternatives in these comments. The "transparency" BLM has claimed for this process was not fulfilled by their actions in providing basic supporting data used in developing the DRMP/EIS.

The DRMP/EIS electronic version did not provide hyperlinked capabilities so the table of contents can be used to navigate this long and complex 1,500-page document. That is standard publication practice in electronic versions of large documents. The lack of a hyper linked table of contents makes the electronic version actually more difficult to navigate than the paper copy, in which the reader can earmark particular sections.

3. Socio Economics.

For the past 20 years the BLM has not managed O&C lands for the economic benefit of counties and communities as mandated by the O&C Act. Consequently, for many years Counties have experienced the painful effects of significant losses in family wage jobs and hundreds of millions of dollars in lost income, resulting in communities failing to sustain local businesses and economic growth. In addition, the substantial reduction in revenues from timber harvests, only partially and temporarily offset by "safety net" payments to Counties, has resulted in very significant reductions in County services such as sheriff patrols, criminal prosecutions, jail operations, health and social services, libraries, etc. Many communities are at a crossroads for continuing to meet public needs. The DRMP/EIS socioeconomic analysis is misleading. It fails to analyze the socioeconomic impacts that have occurred to O&C Counties that directly resulted from significant changes in Federal policies for managing O&C and CBWR lands.

a. Increased Activities on BLM and County Budgets.

Increasing levels of activities on BLM lands has a corresponding effect on levels of services that must be provided by county government such as roads, sheriff patrols and search and rescue. For example, expanded recreation brings visitors from outside a County who use county-provided services but do not pay taxes to support those services. The BLM's social economic analysis did not address this issue, which has direct economic effects on County budgets.

b. 2012 Comparison Standard.

The socioeconomic section's key points state: "The annual harvest value of timber, compared to $23 million in 2012, would increase under all alternatives." (DRMP/EIS, page 472.) The baseline for comparison under NEPA is the current plan, which in the DRMP/EIS is the "No Action Alternative as written." Using the correct baseline, only Alternative C would have an increase in value of the timber. The current implementation, as reflected in the 2012 baseline, represents a substantial departure from the current plan and reflects and unsustainable harvest of relatively low value timber with high associated logging costs. This expression as a "Key Point" is very misleading and does not reflect how the Alternatives compare with the existing plan.

BLM used 2012 as a baseline for analyzing how jobs, earnings, and County revenues would be affected by the Alternatives. This analysis provides no context, as it did not analyze the full effect of how federal government forest management policies have affected O&C Counties under the current plan. Demonstrating the ill effects of federal policies since 1995, however, would fully disclose how jobs, incomes, and revenues were affected by the NWFP and more fully inform the public about the context for evaluating the probable effects from the next RMP. Trends are important to understanding current and future conditions, and the socio economic trends in the O&C Counties over the last 20 years have been decidedly down. The public deserves to have its government at least acknowledge and discuss the effects of past government actions as part of making decisions about where to go from here.

c. Cost of Implementation.

"The BLM will develop action alternatives to simplify implementation of management actions and reduce the costs of implementation." (DRMP/EIS, page 12.) Across all alternatives the analysis for the cost of BLM to prepare timber sales was held constant at $200/mbf, which is based on implementation over the last decade. (DRMP/EIS, page 548.) The timber sale program in recent years has consisted largely of thinning sales, which produce much lower volume per acre than most of the Alternatives. It is not logical to assume that the cost to develop timber sales, especially under Alternatives that include harvest at higher volume per acre, would be a constant. The range of silviculture practices described under the Alternatives should have a range of timber sale preparation costs. The BLM preferred Alternative B indicates a 16% increase in budget would be required over the current budget. (DRMP/EIS, page 602.) BLM's cost to prepare timber sales seems to be higher than private and state, as reflected historic stumpage prices. (DRMP/EIS, figure 3-142.) These lower stumpage values for BLM sales since the adoption of the 1995 RMP, when compared to state and private, has a direct effect on the

generation of revenue and ultimately payments to Counties. The economic analysis has not demonstrated how the BLM's Alternatives will "reduce the costs of implementation."

d. Market and Non Market Values.

The inclusion of non-market valuation is a new approach that has not been used in previous EISs for the BLM lands in western Oregon. In both the DRMP/EIS and the outreach the BLM has not attempted to clarify several key points and that failure has resulted in clouding the public's understanding of this new information. The BLM reported that the timber valuation ranged "from $37 million under Alternative D to $135 million under Alternative C." In the next Key Points the BLM states the "value of recreation on BLM-administered lands at $223 million and the annual value of net carbon storage at $99 million." (DRMP/EIS, page 472.) The way this is expressed implies they are in common dollar terms when in fact timber dollars are real dollars paid by real purchasers, rather than estimates based on concepts such as hypothetical willingness to pay. The purpose of the O&C Act to generate revenue for Counties is achieved with real dollars, not conceptual ones. Even more misleading is the way the information is presented and has been interpreted by some, as though timber production is at odds with recreation opportunities and carbon storage. The BLM recreation IDT member has stated that other than areas designated for remoteness values all other recreation opportunities are largely compatible with forest management. The BLM analysis indicates no significant difference in carbon stored over the range of forest management Alternatives. BLM's failure to adequately describe and connect these key components in the analysis has not fostered full understanding of the market versus non-market valuations.

e. Payments to Counties.

BLM failed to disclose appropriate context for the levels of payments in relation to historic averages that has been derived from the management of the O&C forest. The design of the Alternatives has resulted in unacceptably low levels of projected payments to the Counties. See the AOCC Side by Side Summary attached as Encl. 1 with these comments for the appropriate context.

f. Jobs.

The current plan provides for relatively even regional distribution of jobs between the Northern and Coastal BLM Districts and the Southern Interior Districts. The preferred Alternative B reduces the harvest from the current plan for Medford, Roseburg and Coos Bay Districts. All Alternatives would shift the harvest substantially to the Northern Districts. Harvest distribution that is proportional to the inherent productivity of the forest is important for jobs and wood products to support the milling infrastructure. See AOCC Side-by-Side Summary for additional information on this topic.

g. Distressed Areas.

The DRMP/EIS did not analyze or reach any conclusions about how BLM's Alternatives would affect Distressed Area issues raised by the State of Oregon. (DRMP/EIS, pages 477-478.) The Oregon Business Development Department identifies distressed areas based on

unemployment rates, per capita personal income, and related criteria. As of 2014, the Department identified 14 of the 18 O&C Counties as distressed. Within the few non-distressed Counties, the Department also identified a number of individual communities that are distressed. Most of these rural communities were at one time very dependent on O&C timber production and thrived during the decades when the BLM followed the mandates of the O&C Act--- examples include Estacada in Clackamas County and Willamina in Yamhill County. In addition, in 2012 the Oregon Secretary of State identified 8 O&C Counties whose financial condition is at a higher risk of distress (Coos, Curry, Douglas, Jackson, Josephine, Klamath, Lane, and Polk Counties.)

The AOCC requests additional analysis that answers a key question: "Will BLM's proposed RMP change the distressed status of any of the O&C Counties and its communities to a non-distressed status or will the status remain the same or get worse?" Additional alternatives based on managing O&C lands under the principles of sustained yield will be necessary to fully test possible changes in County and community status.

h. Market Impacts of Changes in BLM Harvests.

"The BLM might expect the full employment impacts associated with an increase in harvest, but the net change in employment would be reduced by reductions in private harvests. At the same time, expected revenues would be less than expected, as stumpage prices are reduced by the net increase in harvest volumes." (DRMP/EIS, page 472.) Similar statements are made on pages 516, 517 and 548. These statements are questionable in the face of an ever-growing demand for forest products. The limited time allowed for the comment period did not permit further investigation of true market elasticity in light of growing, long-term demand.

One factor of significant importance that was largely ignored in the BLM's analysis is the opportunity for the BLM to offer timber for sale that the private sector cannot supply in the quantities the market desires. The BLM is in a position to offer the market a perpetual supply of larger, older, higher quality timber that private growers no longer produce in significant quantities. Instead of taking advantage of this substantial and unoccupied market niche, the BLM's Alternatives are largely focused on joining the private growers by emphasizing harvest of smaller, younger and less desirable timber. The AOCC requests that the BLM perform a market analysis that is driven by optimization of revenue from timber harvests on a per mmbf basis. The public is entitled to see the extent to which the BLM might be able to avoid the market response that the DRMP/EIS says will occur and at the same time increase revenues for Counties without increasing acres treated.

4. Management for Endangered Species.

In addition what has been said in other sections of these comments, we offer the following brief points:

a. Management of Owl and Marbled Murrelet Sites.

Following AOCC's recommendations for new Alternative(s) in section J. below, extensive amounts of late-successional forest habitat would persist across the landscape and

increase over time. AOCC prefers an ecosystem-based approach rather than a return to single species management that results in a constant erosion of the lands allocated to sustained yield.

b. Plan Level Decisions for Certainty.

"The BLM will develop action alternatives to provide a high degree of predictability and consistency about implementing land management actions and a high degree of certainty of achieving management objectives (desired outcomes), especially those outcomes related to discrete statutory mandates." "Working closely with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, the BLM will develop the action alternatives to provide sufficient detail in the analysis to facilitate RMP level Endangered Species Act consultation, as well as eventual project-level consultation for management actions implementing the RMP." (DRMP/EIS, page 472.)

The BLM has developed the best available information and conducted state of the art analysis that is specific to the O&C landscape. The assessment of the Alternatives was allegedly based on the "conservation needs" of the spotted Owl. Unfortunately, the design of the Alternatives far exceeds a "need" based standard. There is deep concern that the spotted owl CH and RP, which were developed with far more generalized data and analysis than the BLM has available, will add additional constraints beyond what are described in the DRMP/EIS. The BLM analysis indicated not all of the measures recommended in the RP are warranted, and the extensive nature of CH is not the only way to achieve favorable ESA outcomes. These regulatory rules were developed by the USF&WS absent a full evaluation of the potential to apply sustained yield management. These regulatory rules were developed without due consideration of economic implications specific to the O&C forest. Consultation should make decisions based on the BLM analysis at the plan level to provide certainty in the outcomes that are established under the statutory authority under the O&C Act and actual needs for ESA species. In practice, the USF&WS is likely to ignore the available BLM analysis during consultation.

c. Barred Owl.

It is a conundrum that barred owl effects appear to eclipse the effects of any approaches to management in modeled population outcomes, particularly in the Coast Range. As previously requested in the AOCC planning criteria comments (see Encl. 3), the BLM should conduct a reference analysis on all Alternatives without any barred owl influences. This reference analysis is to isolate and reveal the degree management of the BLM forest has an impact on population response, if any. Absent this reference analysis there cannot be an informed discussion on the degree to which BLM management matters---or if it matters at all. BLM authorities are for management of the forest, not managing the barred owl population. BLM should focus on their responsibilities in selecting a management approach.

d. Alternative B Large Blocks – Coast Range.

"In the Coast Range, the BLM has no opportunity, through habitat management, to reduce risks to the northern spotted owl during the next 50 years, and there are no substantive

differences among the alternatives in their potential effects on those risks." (DRMP/EIS, page 746.) No rationale was provided why the BLM selected the Preferred Alternative B large block network that far exceeds the size and spacing standards for large blocks. (See AOCC's Side by Side Summary, Encl. 1, page 12.) If it was in relation to the overriding effects of the barred owl, that rationale is not supported by the BLM analysis.

5. Forest Management.

a. Reforestation.

The DRMP/EIS at page 265 says the following:

> "The LITA would produce an average of 18 percent less timber yield per acre than the MITA in Alternative B, because of the higher level of retention and projected reforestation failures after regeneration harvest. Based on evaluation of past natural reforestation, the BLM concludes that an average of 10 percent of each regeneration harvest unit in the LITA would fail to reforest, 30 percent would reforest at very low levels of stocking, and 60 percent would reforest at target stocking levels... Reforestation failures would eliminate future timber harvest opportunities; reforestation at very low levels of stocking would preclude commercial thinning opportunities. In addition to reductions in timber yield from reforestation failures in the LITA, the reliance on natural reforestation would limit the ability to manage the species composition of the regenerating stand. This would also preclude replanting stands with disease-resistant trees, such as rust-resistant sugar pine or root disease-resistant Port-Orford-cedar. This reliance on natural reforestation would also preclude the ability of the BLM to shift tree species composition or tree genotypes within stands to adapt to changing climate conditions."

Because of all of the effects stated above, natural regeneration is not appropriate given the statutory responsibilities to manage the O&C forest under the principles of sustained yield.

b. Salvage.

After major natural disturbances salvage should be conducted to the standards of the post-harvest tree retention standards related to the Allocation. Salvage issues have delayed BLM decision making after past natural disturbances, which has resulted in loss of economic values simply by delay in decision making. The RMP should be clear that salvage will be conducted along with prompt reforestation consistent with the principles of sustained yield and capture the economic values the same as a timber sale action.

6. Special Recreation Areas, Wilderness Study Areas, Potential Wild & Scenic Rivers.

All of the Alternatives allocate some O&C land as Special Recreation Management Areas, Wilderness Study Areas and rivers suitable for Wild & Scenic River designation. The primary land use focus for these allocations is management and protection of these values that in

many cases preclude managing the O&C lands under the principles of sustained yield. These land uses cannot be permanently allocated on O&C and CBWR lands as these designations do not have a statutory imperative apart from the O&C Act and are not permitted under the O&C Act. The AOCC does acknowledge that the BLM can choose to avoid certain areas for the life of any plan, so long as the mandatory minimum harvest level (discussed above at pages 6-7) is satisfied and so long as the temporary avoidance of selected areas does not materially detract from satisfying the objective of the O&C Act to produce revenue for the O&C Counties. The BLM should revise the DRMP/EIS to make clear that areas within Special Recreation Areas, Wilderness Study Areas and Potential Wild & Scenic River designations are allocated only for the life of the plan. The BLM must acknowledge that it is without authority to permanently withdraw these areas from sustained yield timber management absent further Congressional action.

J. AOCC's Requests for Design of New Alterntive(s).

The BLM's PNS (discussed above in section E of these comments) uses the phrase "provide a Sustained Yield of Timber" rather than the plain language under the O&C Act: "timberlands... shall be managed... in conformity with the principal of sustained yield." Providing for "a" sustained yield implies a byproduct outcome rather than a fundamental guiding principle for management. There is much more latitude within the PNS for the application of sustained yield management than BLM utilized in the design of its Alternatives. The term "reserved" in the BLM DEIS/RMP means sustained yield management is precluded as an upfront decision, before any analysis justifying the designation. Sustained yield strategies can *simultaneously* maintain desired habitat conditions at the landscape level and at the same time produce timber. AOCC requests additional Alternative(s) be developed to fully test how the O&C timberlands can more fully be managed under the principles of sustained yield. Suggested components of new Alternative(s) include:

1. Increase the Land Base for Sustained Yield Management.

a. Standard for Size of Large, Contiguous Blocks of Late-Successional Forest.

BLM cites a number of previous studies that considered a range of sizes of large blocks, based on the number of pairs of owls to be supported in each block (DRMP/EIS, page 750). BLM adopted the upper end of that range, to support at least 25 pairs, as the standard for the size of large blocks based on the rationale that the PNS - "is to contribute to the conservation and recovery of the northern spotted owl, which requires more than self-sustaining populations." (DRMP/EIS, page 750.) This pre-judgement by the BLM of using the upper end of the number of pairs, and thus the size of the large blocks, has not revealed if a lower standard would provide for self-sustaining populations that meet Conservation Need #1 ("a landscape that creates large blocks of nesting, roosting and foraging habitat that are capable of supporting clusters of reproducing owls, distributed across a variety of ecological conditions and spaced to facilitate owl movement between the blocks"). The BLM 2008 FEIS analysis utilized large blocks based upon 20 pairs of spotted owls that met Conservation Need 1. The BLM should have at least one alternative that uses a 20-pair standard for designing the size of the large blocks, thus increasing the lands allocated to sustained yield.

b. Landscape Context for Older and More Structurally-Complex Forests.

The PNS states that maintaining older and more structurally-complex multi-layered conifer forest is a necessary part of the purpose of contributing to the conservation and recovery of the northern spotted owl. It also states that the alternatives would explore differing approaches to defining older and more structurally-complex multi-layered conifer forest, by such criteria as stand age, structure, size, or landscape context. For most of the Alternatives, simple age-based definitions were used and none of them applied landscape context.

USF&WS's owl recovery plan Recovery Action 32 is a broad recommendation to restore and maintain substantially all high quality spotted owl habitat stands. This does not recognize the varying level of biological contribution that individual stands provide in the landscape context of the BLM checkerboard in which not all stands are capable of making a meaningful conservation contribution based on functionality. It was a pre-judgement by BLM to apply broad definitions for amount of forest to be reserved and have sustained yield precluded.

There are a number of criteria that can be used by the BLM to apply landscape context to reduce the amount of older forest to be reserved for the life of the plan that would not likely result in measurable adverse effects on owls but would have positive effects on sustained yield timber production. BLM should use the dispersal capability analysis and reallocate older forest reserves in those areas that have limited dispersal capabilities. In addition, the BLM should evaluate the relative habitat suitability (RHS) rankings and develop a sustained yield strategy for older forest reserves for those stands that have low RHS scores. The BLM owl analysis has demonstrated that in the northern Cascades the Forest Service lands are the primary driver for the spotted owl. BLM should test sustained yield strategies on older forest areas that are not directly adjacent to the Forest Service Lands in this area. These potential increases in the amount of land available for sustained yield will have a substantial effect because they contain mature forest that can be a source of high value, near-term harvest. The lack of mature forest in the BLM's current HLB is what is causing the harvest below maturity standards. Adding some mature forest into the HLB will reduce the amount of acres harvested and allow for longer rotations to be implemented sooner.

c. Extent of Riparian Reserve.

The BLM analysis indicates that all of the strategies considered comply with the Clean Water Act and the PNS. As described in the DRMP/EIS, the riparian reserves overlay all other allocations and are up to nearly a third of the entire landscape. Given all strategies met the objectives, AOCC recommends the use of the Alternative C strategy. The Alternative B strategy addition of modeled debris prone areas is an unnecessary overdesignation that would preclude sustained yield management. In practice, the BLM's Timber Productivity Capability Classification policy would determine at the project level any areas that are debris prone and take appropriate protection measures. Of the approximately 370,000 acres under the Alternative C riparian strategy only 80,000 (22%) acres are available for harvest to advance riparian objectives alone. The BLM modeling indicated in the first decade only ~ 7,150 acres would be treated which less than 2% of the Riparian Reserve. In other words 96% of the riparian reserve would

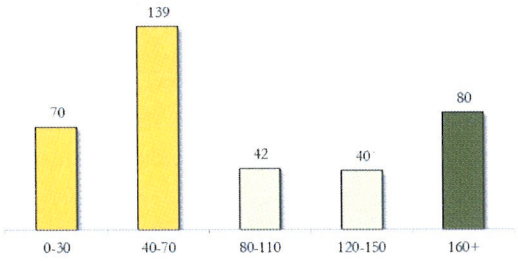
not be subject to change by management over the 20-year life of the plan. Given this strategy is effective for meeting the stated objectives, the area treated within the reserve under Alternative C is very modest, there is no reason to expand the area in the riparian reserve and further preclude sustained yield.

3. Expand the Application of Sustained Yield Management.

a. Moist Forest Large Blocks

The PNS states: "Overall, these previous analyses demonstrated that large, contiguous blocks of late-successional forest would not have developed under these alternatives, further demonstrating that reserving a network of large blocks of forest from programmed timber harvest is a necessary part of the purpose of contributing to the conservation and recovery of the northern spotted owl." This is a true statement to the extent that these previous strategies did not result in the development of large continuous blocks of late-successional forest. The reason these strategies failed in creating large blocks is that no specific allocation was made. Designation of a large block network boundary is essential to meet that objective. It is a false presumption to conclude that a reserve is the only way to develop continuous blocks of late-successional forest. Sustained yield strategies with a focus on developing and maintaining late-successional forest conditions as the primary objectives can likely meet the need for a network of large blocks of late-successional forest. Sustained yield strategies are likely to provide a wider range of appropriate ecological conditions over time than a reserve based strategy.

Graphic 5 – Alt C Age Class Distribution - Moist Large Blocks – Thousands Acres



- Younger Forest - 56% of these large blocks are under age 80 and are not currently spotted owl habitat. (yellow)
- Mid Aged Forest – 22% of the large blocks are between age 80 and 150. (light green)
- Structurally Complex Forest - 22% of these large blocks are 160 years and older. (dark green) Note - the BLM data hierarchy required a reasoned estimation for this category.
- Late- Successional Forest - 44% of these large blocks are currently 80 years and older. (light and dark green)

Once an area is designated to be managed as a contiguous large block of late successional forest the largest factor for achieving that goal is the passage of time. Using Alternative C's

moist forest large blocks as an example, we make the following suggestions for sustained yield management. This is not an endorsement of the size of the area designated as large blocks in Alternative C (see 20 v. 25 pair discussion above in section I.1.a).

- The forest 160 years and older represents high quality habitat and no management is suggested for this forest during the 20-year life of the plan, except for salvage to recover economic value following wildfire or other catastrophic event. In addition, prompt rehabilitation and reforestation management is required after such an event.

- Lands under age 160 would constitute the land base to allocate to sustained yield management for the purpose of developing a range of complex multi layered forest conditions on the landscape within the designated large blocks.

- Currently over half of the large blocks are not late-successional forest condition (yellow). Thinning of this forest for the objective of increasing structural complexity and advancing the development of late-successional forest should continue.

- Over the next 20 years approximately 50,000 acres of what is currently under aged 80 will advance into the mid aged forest category increasing the overall late-successional forest to ~ 60%. As this mid aged forest increases it creates an opportunity to let a portion of this continue to advance towards structural complexity and a portion to be harvested to make multi canopy diverse stands through sustained yield management. This is building from the concepts developed by Johnson & Franklin (2009) where this mid aged older forest has large individual tree structures expressed which though management can be used to create complex early seral with high levels of older forest retained after harvest. The sustained yield cycle can be based on long rotations that will produce very high quality logs of high value and simultaneously maintain late-successional habitat conditions on the landscape within the large blocks.

b. Fire Resiliency Treatments in SW Oregon

The BLM's Alternatives designated varying extent of un-even aged management areas to increase fire resiliency in response to the PNS objective to restore fire-adapted ecosystems. This approach is one way to address the restoration need, but the BLM has not fully explored what is possible through sustained yield management and other approaches.

Wildland Fire Potential (WFP) depicts the relative probability of experiencing extreme fire behavior with torching and crowning and difficulty of containment during weather conditions favorable for fire growth (DRMP/EIS, pages 205-207). Currently, there are 399,605 acres of Very High WFP and 499,709 acres of High WFP within the interior/south BLM management area. This is a total of ~ 900,000 acres. On a decadal basis selection harvest within the uneven aged area under Alternative B is ~ 53,000 acres and under Alternative C it is ~34,000 acres. These BLM Alternatives would restore only 4 to 6 percent of what is ranked as high and very high WFP.

It is understood that the BLM administered land is small portion of the overall southern interior area and has limited capabilities to improve resiliency at the landscape level. What is within BLM control is the level of resiliency treatments that are conducted on BLM lands and protection of its resources from loss to fire, and the threat that untreated BLM lands pose to adjacent lands owned by others. The un-even aged HLB under Alternative B is 274,000 acres and under Alternative C is 185,000 acres. The HLB designations are dwarfed in comparison of the reserve designations. The BLM approach in designing its Alternatives did not start with defining the magnitude of the fire resiliency problem. Instead, the BLM's approach to addressing fire effects is a response to allocations made primarily for ESA objectives. A more effective approach would be based on resiliency needs, with the allocations and treatment intensities as upfront decisions in the design features of the Alternatives, along with ESA objectives.

An alternative approach would start with an assessment of the forest condition, at the stand level, to rank them for need based on risk for loss to fire and need for resiliency treatments prior to making allocations. The BLM was asked if this type of assessment had been done and the response was as follows: "The Draft RMP/EIS does not specifically classify forest stands as "at high risk to loss by fire."" (6/26/2015 Mark Brown email.) Assessment of level of risk at the stand level and prioritization for need for treatment would better define the magnitude and spatial extent of the needs rather than defining broad dry forest areas. In combination with information on owl habitat and site locations this assessment could provide a framework to design a strategy that emphasizes improving fire resiliency in the short term while providing long-term conservation and timber production.

The rate and scale of treatment specifically in the HLB will only treat ~36-38% of those lands over the 20 year life of the plan. The uneven aged HLB is only a minor portion of the landscape in southwest Oregon. On the BLM ownership as a whole, including the reserves, the overall treatment is far less. Alternatives to increase the rate and scale of treatment across the landscape should be considered to respond to the need more effectively. This should be a design objective rather than a byproduct analysis from a design that does not address the magnitude of the problem. Departure from even flow in the HLB, if needed, should be considered to respond to the need for improving resiliency and minimizing loss of resources to fire.

The board feet harvest on a per acre basis for the interior southern Districts under the currently used uneven aged management prescription is 38% of what can be produced under even aged management (DRMP/EIS, page 262). The current design of the BLM alternatives for un-even aged management is based on a continued application of this low yielding prescription. The economic implications in terms of generating revenue, wood supply, and jobs, given the relatively small diameter material with high logging costs under the current and proposed uneven aged management prescription is a concern. A mix of silvicutural prescriptions should be developed. After broad scale resiliency objectives have been achieved, in the high resiliency needs areas, higher volume production prescriptions could be applied. In those areas with lower resiliency needs higher production prescriptions could be applied now.

This suggested approach would more directly and promptly address the immediate need to restore fire-adapted ecosystems. These suggestions would also improve the regional

distribution of wood products, infrastructure and jobs over the current BLM Alternatives in southwest Oregon.

c. Mature Forest in the HLB - Longer Rotations and Maturity Criteria.

It is agreed that older more structurally complex older forest as habitat for the spotted owl is important. The design of the BLM Alternatives, to the degree this mature forest has been reserved and precluded from sustained yield, has resulted in HLBs that are mostly young forest that have not reached maturity. This has consequences: "Reserving older forests in the action alternatives would force the BLM to harvest stands less than 80 years old for up to 100 years before transitioning completely to longer rotations." (DRMP/EIS, page 255.) All of the Action Alternatives depart from the longstanding policy of observing maturity criteria and not harvest below the Culmination of Mean Annual Increment (CMAI).

Harvest below CMAI results in harvesting more acres of immature forest than would occur if mature forest was available. Over the first three decades under Alternative B, over 30% of the acres harvested are in ages below CMAI. Under Alternative C it varies between 36% and 54%. The lack of mature forest in the HLB prevent the Action Alternatives from testing immediate application of longer rotations that are at or above CMAI, which has been the standard practice prior to this planning process. Under Alternative B only 18% of the near term harvest comes from grade 1 logs and that declines to 6% over time. The value of grade 1 logs is significantly higher, which effects revenues. Adding more mature forest in the HLB is likely to reduce the acres harvested and improve the economic outcomes. Since longer rotations on a HLB with higher levels of mature forest were not incorporated in the Alternatives and analyzed, the environmental effects are not disclosed under this EIS.

The BLM PNS limited the application of sustained yield management that is the guiding principle in law for the O&C lands. The suggestions above are an attempt to more fully apply sustained yield management within the premise of the PNS as it was adopted by the BLM. There are other approaches that go further to conform to the O&C Act while complying with ESA and CWA as stated in the Notice of Intent for this planning process. The BLM's Alternatives applied many conservation standards that exceed compliance standards and have unnecessarily constrained sustained yield management. More is possible if the BLM had established need-based thresholds for compliance with ESA and CWA and permitted sustained yield management considering those compliance thresholds. BLM needs to analyze new alternatives to address these suggestions.

K. Conclusion.

The BLM planning process began on the right track with the NOI but went off the rails with publication of the PNS. What has come after, as expressed in the DRMP/EIS, is inconsistent with requirements of the O&C Act and in many respects is inconsistent with NEPA. We request that the BLM conduct further analysis on additional alternatives as described above in these comments, and publish the results in a supplemental draft RMP/EIS

Thank you for considering our comments. We request that these and all comments submitted by others be posted on the BLM's website within five days following the close of the comment period.

THE ASSOCIATION OF O&C COUNTIES

By: _____
Kevin Q. Davis, Attorney for the Association

cc: Oregon Congressional Delegation
DOI Secretary Sally Jewell
BLM Director Neil Kornze
Mark Brown
Mike Haske
AOCC Member Counties

Side by Side Comparison -
& -
Synthesis of Alternatives -

RMPs for Western Oregon -
Draft Environmental Impact Statement - DEIS -

May 14, 2015

Contents

Prepared by Chris Cadwell (C Cadwell Consulting LLC) for the Association of O&C Counties.

Sustained Yield & Reserve Definitions – O&C Act - DEIS Alternatives -

Sustained Yield - The rate of harvest that is in balance with, and does not exceed, the growth rate of the forest.

Reserves - "*In the context of these land use allocations, the term "reserve" indicates that the BLM or Congress have reserved lands within the allocation from sustained-yield timber production."* [1]

The O&C Act states that timber lands shall be managed for permanent forest production and the timber thereon shall be sold cut, and removed in conformity with the principles of sustained yield. The annual sustained yield capacity shall be sold annually.

The Alternatives in the DEIS were all designed with high levels of reserves as a threshold decision, before any analysis was done to determine the necessity of withdrawing lands from sustained yield management. This upfront decision to reserve large percentages of forest results in a failure to consider and analyze a reasonable range of approaches for managing the lands under the principles of sustained yield. Sustained yield management can take many forms, some of which can simultaneous provide a wide range of forest landscape conditions, including late-successional and complex older forest, while simultaneously producing timber.

Introduction to the Alternatives

The Alternatives have categories of "Reserves" that include: Congressionally Reserved, District Defined Reserves, Riparian Reserves, and Late Successional Reserves that consist of large blocks and individual older stands. Harvest within in some Reserve categories is permitted but is generally limited to thinning of younger stands. Opportunities for harvest within Reserves will therefore eventually be exhausted and is not sustainable. The remaining, non-reserved lands are referred to as the Harvest Land Base and are the lands allocated to sustained yield timber production.

No Action Alternative
The 1995 RMP currently in effect is based on the Northwest Forest Plan (NWFP). The BLM's management of the Harvest Land Base under the 1995 RMP has not conformed to the sustainable management strategy in that plan. The BLM timber sale offerings were intended to be a mix of thinning and regeneration harvests, but instead have been mostly thinning harvest. The eventual depletion of the thinning opportunities and absence of regeneration harvest cannot be sustained. The No Action Alternative is based upon the 1995 RMP "As Written", not as it has been actually implemented.

There are four "Action Alternatives" (A-D) which are described in the DEIS Chapter 2 pages 40-75. A high level comparison of key elements follows:

Late Successional Reserves – Large Blocks
No Action – NWFP reserve block design. Alt A uses all designated Critical Habitat. Alt B is similar in size to Alternative A but in a different configuration on the landscape. Alt C is based on scientific standards for size and spacing of large blocks for spotted owls. Alt D did not designate specific blocks but relies on individual stand based Late-Successional Reserves.

Late Successional Reserves – Stand Based – Structurally Complex Forest
No Action – None. Alt A - stands 120 Years and older. Alt B - District Defined (varies). Alt C - stands 160 years and older. (A sub-Alternative C reserved all stands 80 years and older.) Alt D Stands 120/140/160 years and older based on high/moderate/ low productivity sites.

Riparian Reserves
No Action – 2 Site Potential Tree Heights (SPTH) on fish bearing streams, 1 SPTH on non- fish bearing. Alt A - 1 SPTH on all streams. Alt B - 1 SPTH fish bearing streams, 50-100' on non-fish bearing streams. Alt C 150' on fish bearing streams, 50' on non-fish bearing streams. Alt D 1 SPTH on all steams. There is also an inner zone that will receive no treatment and that ranges from 50-120' in the Action Alternatives.

Marbled Murrelet - Survey and Protection of Sites
No Action – Survey in zones 1&2[2] and protect within ½ mile of sites. Alt A – none. Alt B survey in zone 1 and protect habitat within 300' of sites. Alt C survey stands 120 years and older and protect habitat within 300' of sites. Alt D survey in zones 1&2 and protect habitat within ½ mile of sites.

Protection of Spotted Owl Sites Within the Harvest Land Base
No Action – 100 acres for known sites as of 1994. Alt A, B, and C – None. Alt D – protect habitat within median home ranges of all known and existing sites. A sub-Alternative B protects all known and historical sites.

Harvest Land Base – Tree Retention
No Action – Mostly 6-8 trees per acre (TPA) with some areas at 12-18 or 16-25 TPA. Alt A – None. Alt B, two levels: 15-30% and 5-15%. Alt C – none. Alt D - Inside spotted owl critical habitat maintain spotted owl habitat, outside 5-15% retention.

Harvest Land Base – Intensity of Management
Alt A – Uneven Aged Management and High Intensity. Alt B - Uneven aged management and a mix of Low and Moderate intensity. Alt C - Uneven Aged Management and High Intensity. Alt D - Uneven Aged Management, Moderate Intensity, and maintenance of spotted owl habitat. The intensity of management is directly related to the tree retention standards. Alt A and C would plant trees after harvest for prompt reforestation. Alt B would use natural regeneration in the Low intensity area and maintain early seral conditions for many decades in the Moderate intensity area.

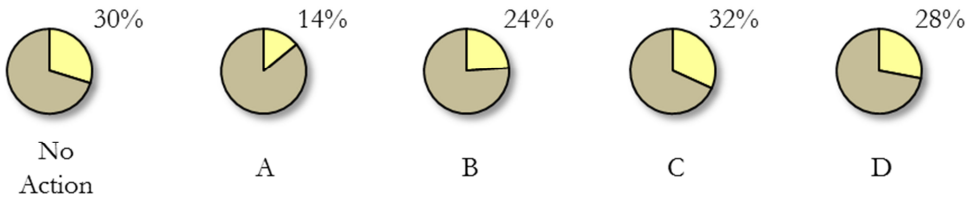
Land Allocations

At the highest level the Alternatives allocate land into:

1) - **Reserves** – "*In the context of these land use allocations, the term "reserve" indicates that the BLM or Congress have reserved lands within the allocation from sustained-yield timber production."*[3] Timber harvest is limited to thinning of younger forest and will not contribute to sustained yield timber production in the future.

2) - **Harvest Land Base** (HLB) – lands allocated to sustained yield timber production. The types of harvest prescribed under the Alternatives conducted on these lands form the basis of the declared Allowable Sale Quantity (ASQ).

Graphic 1 - Reserves (Brown) & Harvest Land Base (Yellow) by Alternative[4].



Key Points

- The O&C Act directs that "*timberlands… shall be managed… for permanent forest production… under the principles of sustained yield*."

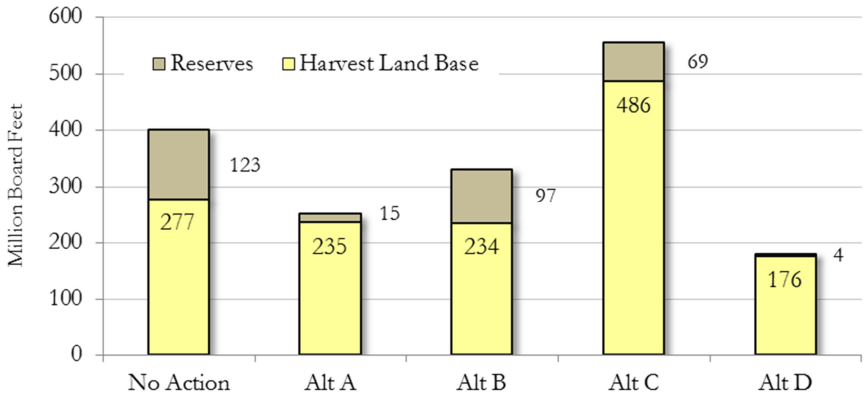
- The design of the BLM Alternatives made up front decisions to "Reserve" vast acreage without exploring the application of sustained yield strategies, such as long rotations on a broader land base, with the objective of maintain high levels of older forest while still allowing some entry for sustained yield management..

- Purpose and Need – "*The purpose of contributing to the conservation and recovery of the northern spotted owl necessarily includes maintaining a network of large blocks of forest to be managed for late-successional forests and maintaining older and more structurally-complex multi-layered conifer forests."* (Underlining added.) Reserves are not specifically required by the Purpose and Need to "maintain" these conditions. Maintaining these conditions may be possible with sustained yield management, but it was not explored in the DEIS.

- This range of lands allocated to sustained yield, in the DEIS, sets the outer bounds for what BLM will consider for the size of the sustained yield land base when formulating the Proposed RMP.

Harvest Volume – Harvest Land Base & Reserves -

Graphic 2 – Annual Harvest Volumes for the Alternatives by Allocation -



1) - **Reserves** - This volume is associated with one-time thinning of younger stands for reserve land objectives. As the reserves age these thinning opportunities will be depleted and are not a sustainable source of volume. This smaller diameter harvest volume is generally of lower value and generates less revenue than regeneration harvest of larger diameter trees.

2) - **Harvest Land Base** – These volumes reflect the sustainable harvest level that can be derived from the harvest land base following the management prescriptions of each Alternative.

Key Points

- With the exception of Alternative C, all of the Action Alternatives project lower harvest levels than the No Action / 1995 RMP.

- Alternative A Reserve treatments are based on "non-commercial" activities. Any thinning harvest for Reserve land objectives would be left on site.

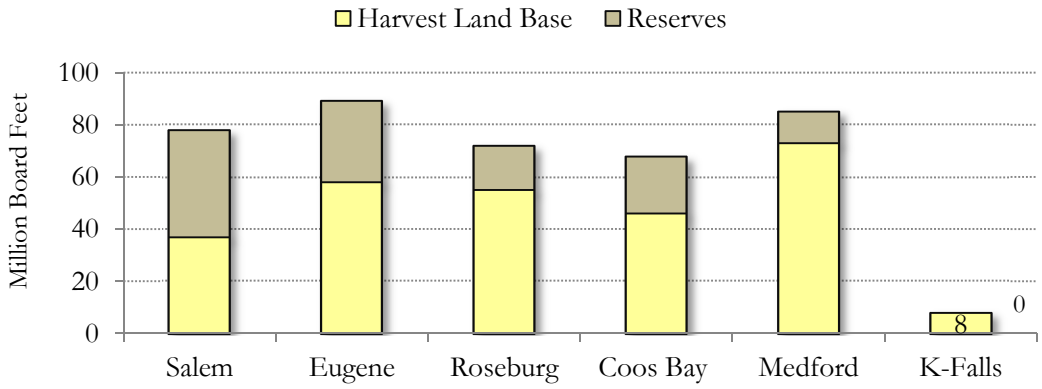
- Alternative D Late-Successional Reserves are based on individual older forest stands in which no thinning is projected to occur. The volume from reserves reflects the thinning within Riparian Reserves alone.

- The thinning from the Reserves is not sustainable and will decline over time. The Reserve harvest volume under Alternative B, the Preferred Alternative, represents approximately 30% of the projected total harvest volume.

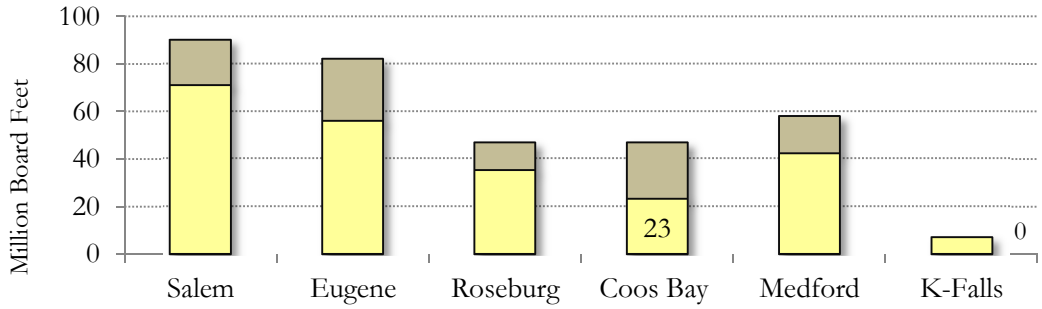
- In Alternative B, the preferred Alternative, sustainable harvest is 28% of the 1.2 billion board feet reported as the maximum level[5] of sustained yield as calculated in 2008. It is likely the maximum sustained yield is now significantly higher based on updated forest inventory data yet BLM did not re-evaluate this important reference point in the DEIS.

Harvest Volume – Distribution by District

Graphic 3 – No Action Alternative - Harvest Volume by District and Allocation



Graphic 4– Preferred Alternative B - Harvest Volume by District and Allocation -

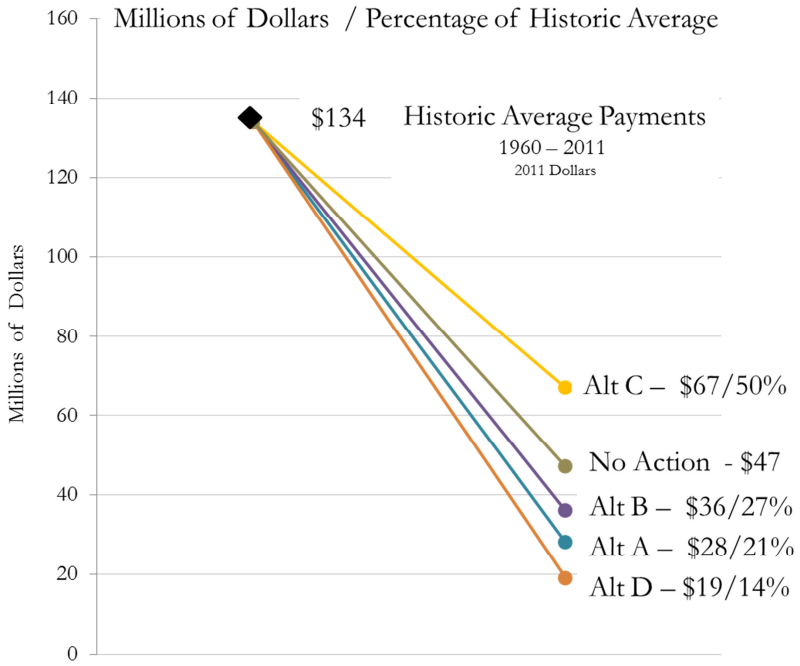


Key Points

- The thinning from the Reserves (brown) is not sustainable and will decline over time.
- The harvest volume from the Harvest Land Base (yellow) is based on sustained yield management and will be the source of harvest volume, jobs, and revenue for the long term.
- The sustainable harvest levels under the Proposed Alternative B would be substantially lower in Roseburg, Coos Bay, and Medford when compared to the No Action Alternative /1995 RMP.

Payments to Counties

Graphic 5 – Payments to Counties by Alternative with Historic Average



Key Points

- Stated in 2011 value dollars, historic payments[6] to counties from 1960-2011 averaged $134 million per year from 1960 to 2011.

- Renewal of the Secure Rural Schools (SRS) program has been an almost yearly struggle and payments have declined substantially over time. It is likely the SRS payments to Counties will end and Counties will again rely on revenue generated from timber sales.

- The BLM Purpose and Need did not recognize the generation of revenue for the Counties as a planning objective despite this explicit purpose under the O&C Act.

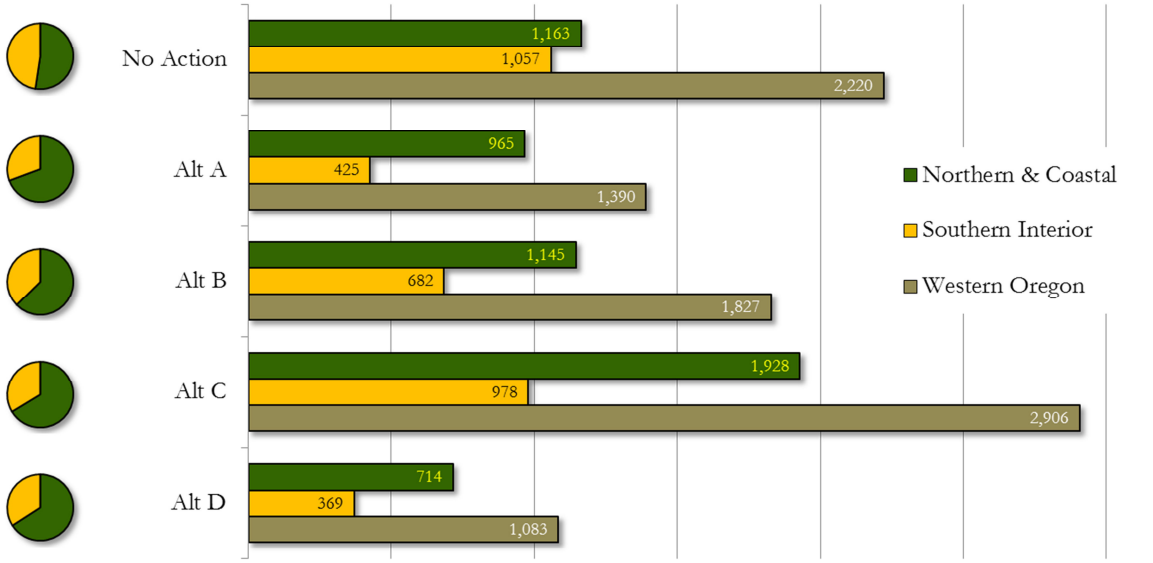
- Even under Alternative C, payments to Counties would only provide 50% of the historic average. Alternative B, the Preferred Alternative, would be just 27% of the historic average.

- As the non-sustainable thinning of Reserves is depleted payments will decline over time.

- Payments to counties, if based on fiscal year 2012 timber sales, would provide $11.7 million dollars, 9% of the historic average.

Jobs – Regional Distribution

Graphic 6 – Jobs - Timber Related Industries[7] by Alternative



Northern Coastal – Salem, Eugene, Coos Bay Districts Southern Interior - Roseburg, Medford Districts and Klamath Falls R.A.

Key Points

- The No Action Alternative / 1995 RMP projected a fairly equal distribution of jobs in timber related industries between the Northern & Coastal and Southern Interior regions.

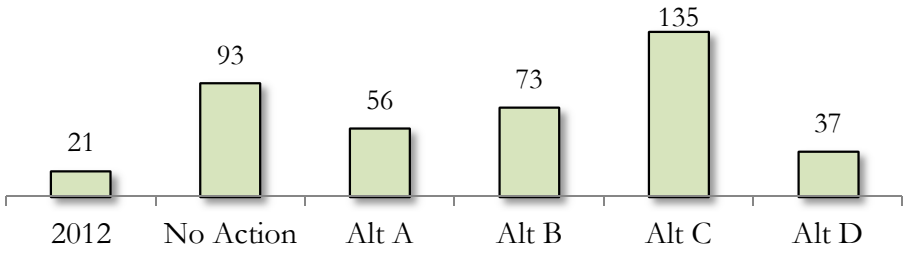
- Under all of the Action Alternatives there is a shifting of the distribution of jobs to the northern Districts, a result of where the harvest would be planned to occur.

- With the exception of Alternative C, all of the Action Alternatives projects lower levels of jobs than the current plan.

- The jobs reflect the total harvest volume, which will decline as the thinning of the Reserves is depleted. In Alternative B, the Preferred Alternative, the reserve volumes comprise approximately 30% of the total projected volume.

Socioeconomics – Market and Non Market Valuations -

Graphic 7 – Total Harvest Values (Millions $ Annually)[8]



Key Points

- The Socioeconomic section uses the value of the fiscal year 2012 harvest as the benchmark to state that annual harvest value "*would increase under all alternatives*". The current implementation does not conform to the 1995 RMP "As Written". Using the No Action Alternative as the benchmark only Alternative C will produce an increase in annual harvest value.

- The total harvest values include the harvest from Reserves (~30% Alt B) which is not sustainable. Harvest values will decline as the thinning of the Reserves is exhausted.

- Grade 1 logs, sawlogs or peelers, represent the "highest value logs". Under Alternative B, the preferred Alternative, only 18% of the harvest comes from Grade 1 logs and over time declines to a low of 6% [9]. This is a reflection of the type of tree retention and the harvest of stands below maturity standards.

- The "Non Market" valuation of recreation is $223 annually. The largest valuation is associated with camping, picnicking, and hunting, which will continue to occur on BLM lands under all of the Alternatives.

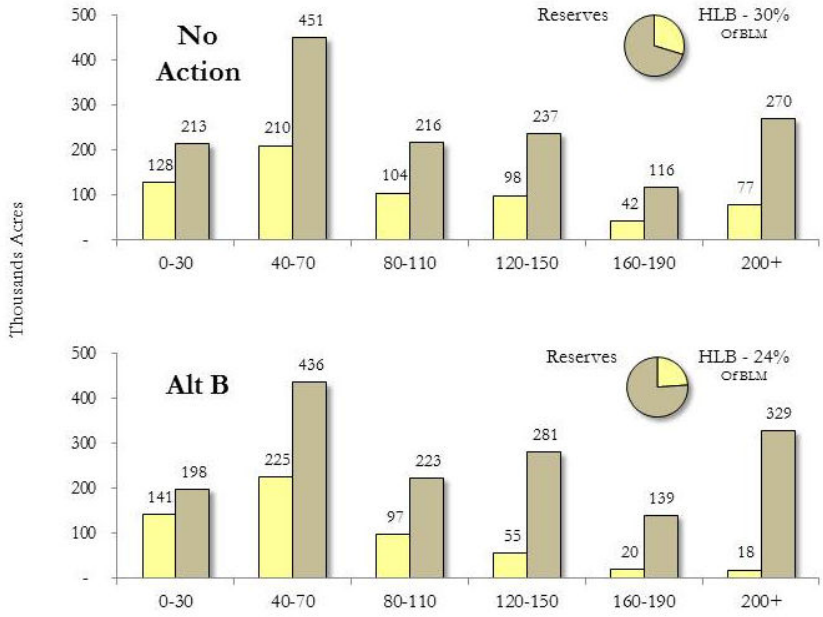
- *"There are large differences between compensation for timber-related jobs compared to recreation-related jobs in western Oregon. The average forest products industry job-holder earns approximately $58,000 while the average recreation-based employee earns approximately $22,000, roughly a third of timber related industries."*[10]

- The "Non Market" valuation of carbon storage is $99 million dollars. The projection of net carbon storage does not vary substantially across the range of Alternatives.

- While there are many non-market values associated with the O&C forest it is only the market based valuation associated with harvest of timber that results in payments to the Counties as described under Title II of the O&C Act. Most of the non-market values are consistent with sustained yield management.

Forest Conditions Available for Harvest -

Graphic 8 - No Action and Alternative B - Age Class Distribution – Reserves/HLB -



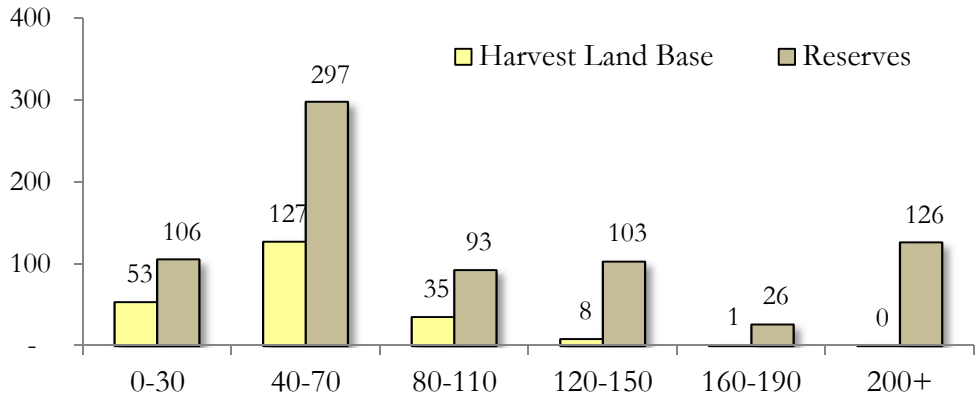
Key Points

- The No Action Alternative Harvest Land Base contains a full range of stand conditions, including mature age classes. The sustained yield strategy is based on stands being harvested when they reached maturity or later. Under this longer cycle of harvest these lands will contribute high value habitat conditions for many decades while being managed for timber production. The logs produced under the longer harvest cycle are of higher quality and value than harvest from younger forest conditions.

- The Action Alternatives generally use aged-based criteria to designate the individual stand based Reserves outside of the Large Block Reserves. The biological capability of these individual older stands to contribute to spotted owl habitat varies widely based on context of the checkerboard ownership, degree of surrounding private land, concentration of other older forest, and stand size. Many individual stands of older timber have very low habitat functionality. The BLM Planning Criteria indicated that "landscape context" would be applied in the designation of older forest but only broad-brush rules were applied. The BLM analysis has several classifications that indicate relative habitat suitability and dispersal capabilities that could be used to designate only those stands that have biological capability and are needed for spotted owl recovery.

- The older age classes that are in the Harvest Land Base under Alternative B are in SW Oregon mostly in the Uneven Aged Management Area.

Graphic 9 – Alternative B for the Northern & Coastal Districts - (Salem, Eugene, Coos Bay)



Key Points Continued

- Of the 234 million board feet of sustainable harvest under Alternative B nearly 65% comes from the Northern and Costal Districts and is derived from the age classes displayed above.

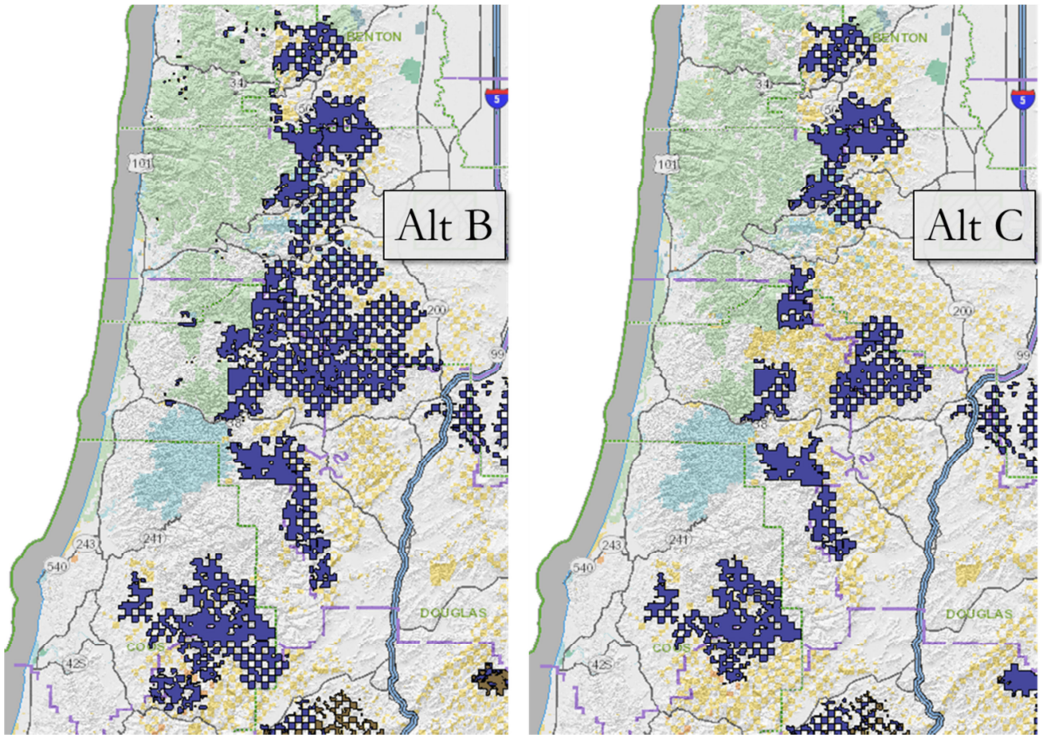
- The Action Alternatives "Reserve" much of mature forest. BLM estimation of the harvest levels for the Action Alternatives departed from using maturity criteria for determining the minimum harvest age and cycle of harvest. "*Reserving older forests in the action alternatives would force the BLM to harvest stands less than 80 years old for up to 100 years before transitioning completely to longer rotations.*"[11]

- The Reserves contain substantial amounts of younger forest. It will be many decades before these younger stands could potentially contribute habitat for spotted owls. BLM has applied the upfront premise that all of this younger forest needs to develop into spotted owl habitat. The BLM Alternatives did not explore how sustained yield strategies could be applied to this younger forest to provide a range of forest conditions over time and understand the effects of such strategies on spotted owls.

Large Block Reserves

The design of the Preferred Alternative B large block Reserves for spotted owls does not apply the scientific standards for size and spacing in the Coast Range. A visual comparison with Alternative C, which does apply the science-based size and spacing criteria, is illustrated below.

Graphic 9 – Large Block Reserve Comparison



Green – Forest Service, Yellow - BLM, Light Blue – State, Dark Blue – BLM Reserves

BLM's Northern Spotted Owl Key Points[12]

- *"The northern spotted owl population is under severe biological stress in much of western Oregon and has an even chance of being extirpated from the Coast Range within 35 years. This population risk is predominately due to competitive interactions between northern spotted owls and barred owls."*

- *"In the Coast Range, the BLM has no opportunity, through habitat management, to reduce risks to the northern spotted owl during the next 50 years, and there are no substantive differences among the alternatives in their potential effects on those risks."*

Spotted Owl Critical Habitat and Recovery Actions

In 2008 the Federal government had developed a spotted owl Recovery Plan, Critical Habitat, and a BLM Resource Management Plan that were coordinated and consistent. Those plans were withdrawn by the government and a new Recovery Plan and a Critical Habitat designation of approximately 53% of the BLM was made prior to starting the RMP revision.

Key Points

- Data on the amount of spotted owl Critical Habitat that overlay the Harvest Land Base has not yet been compiled for all Alternatives. Under Alternative C approximately 44% of the Harvest Land Base is within spotted owl Critical Habitat. It is uncertain if further restrictions on the Harvest Land Base within Critical Habitat will be applied during project level consultation.

- Recovery Action 10 – *"Conserve spotted owl sites and high value spotted owl habitat"*[13]. The BLM analyzed a Sub-Alternative B that protected habitat within the home ranges of all known and historic sites. The result was an approximately 50% reduction in the sustainable harvest level. Alternative B does not provide specific protection of sites within the Harvest Land Base.

- Recovery Action 32 – "*land managers should work with the Service"… "to maintain and restore"… "high quality spotted owl habitat stands are characterized as having large diameter trees, high amounts of canopy cover, and decadence components such as broken-topped live trees, mistletoe, cavities, large snags, and fallen trees."*[14] The Alternatives use age based and District defined criteria to Reserve substantial amounts of older forest that precludes sustained yield management. The definitions of the stand characteristics for Recovery Action 32 are somewhat subjective. It is uncertain if further restrictions on the Harvest Land Base will applied during project level consultation. Neither the development of the Recovery Action nor the BLMs designation of reserves applied any landscape context related to need and biological capability of these individual stand based Reserves.

- Under Alternative B the portion of the Harvest Land Base within spotted owl Critical Habitat will rely on natural regeneration (no replanting) after harvest. Outside Critical Habitat reforestation will rely on natural regeneration and/or planting but will intentionally maintain early seral conditions for several decades after harvest.

- Land management restrictions with the Recovery Plan's "Advisory" Recovery Actions and Critical Habitat designations do not result in clear direction and will not provide the "certainty" BLM has claimed will result from this planning process. The USF&WS development of the Recovery Actions and designation of Critical Habitat did not consider

the data specific to the BLM lands on how habitat will develop over time. The USF&WS policies were developed over the range of the NWFP and did not account for the unique circumstances of the O&C checkerboard or economic objectives for these unique lands. The BLM's analytical capabilities to determine what is needed for spotted owl recovery on the O&C checkerboard and the Federal Government issuing one set of clear management guidelines has not been adequately exercised in this planning process. This inconsistency is likely to be exploited in litigation by those who want to thwart land management by the BLM.

More is Possible

The Notice of Intent for the development of RMP stated:

"The vast majority of the BLM-administered lands in the planning area are Revested Oregon and California Railroad (O&C) lands, or Reconveyed Coos Bay Wagon Road (CBWR) lands, and are managed under the statutory authority of the Oregon and California Revested Railroad Lands Act of 1937 (O&C Act, Pub. L. 75-405) and FLPMA (43 U.S.C. 1701 et seq.). Preparation of the RMPs and EIS will conform to the above land management laws and will also comply with other Federal laws, including, but not limited to the Endangered Species Act (ESA), the Clean Water Act, and the National Environmental Policy Act." (underline add).

The BLM Purpose & Need did not fully recognize the statutory authority for managing these lands under for permanent forest production under the principles of sustained yield. The Alternatives Reserved vast acreage of the O&C without fully exploring how, under sustained yield management, all of the objectives in the Purpose and Need could be met.

The Association of O&C Counties will do an in-depth review of the DEIS with the focus on making reasonable recommendations on how to honor the requirements for sustained yield management on the O&C lands. More is possible under expanded sustained yield strategies, which have yet to be explored, that will simultaneously achieve sustainable economic outcomes as well as providing clean water and endangered species objectives.

Notes and References

[1] DEIS Chapter 2 - page 35 -

[2] Zone 1 – within 35 miles of the coastline, Zone 2 – 35-50 miles of the coast line with an excluded area in - SW Oregon. -

[3] DEIS Chapter 2 - page 35 -

[4] The land base excludes the Eastside Management Lands and are based on gross ownership. -

[5] DEIS Chapter 3 – Table 3-60 -

[6] Payments – Combination of timber sale receipts, Safety Net, and Secure Rural Schools.

[7] DEIS Chapter 3 – Table 3-186 -

[8] DEIS Chapter 3 - Table 3-164 – values in 2012 dollars but at projection point of 2023. -

[9] DEIS Chapter 3 - Table 3-162 -

[10] DEIS Chapter 3 – Socioeconomics - Page 537 -

[11] DEIS Chapter 3– Page 255 -

[12] DEIS Chapter 3 – Page 746 -

[13] DEIS Chapter 3 – Page 748 -

[14] DEIS Chapter 3 – Page 748 -

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June 27, 2013

Jerome Perez, Oregon State Director
Bureau of Land Management
333 S.W. 1st Avenue
Portland, Oregon 97204

Re: Request for Meeting Regarding Purpose and Need Statement

Dear State Director Perez:

I am writing to request a meeting with you to discuss the recently released Purpose and Need Statement ("PNS") for the Western Oregon planning effort. The Association of O&C Counties, on behalf of the 15 counties participating as cooperating agencies in the planning process, would like to meet with you to highlight our concerns. We hope to find a time during the month of July that is convenient for you to spend an hour with Commissioner Doug Robertson, President of the Association, Rocky McVay, the Association's Executive Director, and three of the Association's representatives in the BLM planning process: Van Manning, Chris Cadwell, and Kevin Davis (undersigned). We will be calling you soon to check your availability.

The PNS has turned the O&C Act upside down, leaving economic considerations to the last, after every other consideration has been satisfied. "Sustained yield" of timber is mentioned numerous times, but only as a residual, from lands that are left over after all other objectives are met. There appears to be no intent to try to optimize all values simultaneously. As a consequence, economic concerns will be given short shrift, and the range of alternatives the BLM will consider in the planning process will apparently not include any alternative focused on the primary purpose of the O&C Act. On the few residual acres that will be available for it, sustained yield management is meaningless, providing certainty, but only certainty of failure to support jobs and the economies of the O&C Counties.

We believe the PNS has it backwards. Sustained yield timber production is the means by which the purpose of the O&C Act was to be achieved. The Ninth Circuit Court of Appeals has clearly and unambiguously stated that the overriding purpose of the O&C Act is to provide the O&C Counties with revenues through the sale of timber:

> "*** The purposes of the O&C Act were twofold. First, the O&C Act was intended to provide the counties in which the O&C land was located with the stream of revenue which had been promised but not delivered by the Chamberlain-Ferris Revestment Act ***. *** The counties had failed to derive appreciable revenue from the Chamberlain-Ferris Act primarily because the lands in question were not managed as so to provide a significant revenue stream; the O&C Act sought to change this. *** Second, the O&C Act intended to halt previous practices of clear-cutting without reforestation, which was leading to a depletion of forest resources." Headwaters, Inc. v. BLM, Medford Dist., 914 F2d 1174, 1183-84 (9th Cir. 1990) (citations omitted, emphasis added).

In Headwaters, the Ninth Circuit made clear that sustained yield timber production and harvest was the way Congress intended to achieve the revenue stream to the counties and support of local economies and industries. In responding to the plaintiffs' argument in that case that the O&C lands should be managed for the discretionary protection of owl habitat, the court stated that:

> "*** Nowhere does the legislative history suggest that wildlife habitat conservation or conservation of old growth forest is a goal on a par with timber production, or indeed that it is a goal of the O&C Act at all." Headwaters, 914 F2d at 1184.

Other objectives mentioned in the O&C Act, such as recreation, and watershed protection, are secondary, and are not to be achieved at the expense of the primary purpose of the Act. In O'Neal v. U.S., 814 F2d 1285, 1287 (9th Cir. 1987), the Ninth Circuit Court of Appeals held:

> "*** The provisions of 43 U.S.C. §1181a make it clear that the primary use of the revested lands is for timber production to be managed in conformity with the provision of sustained yield, and the provision of recreational facilities as a secondary use. No duty is thereby established to provide for recreational use." (Emphasis added).

Wildlife-related and recreation objectives must be achieved in coordination with producing revenue for the counties, and not at the expense of that primary objective. Instead of seeking simultaneous satisfaction of objectives, however, the BLM PNS gives wildlife-related and recreation objectives precedence in every conceivable way. We would appreciate an opportunity to meet with you to emphasize our concerns, and to discuss possible modifications to the PNS to bring it into conformity with the O&C Act's requirements.

Very truly yours,

Kevin Q. Davis

KQD
cc: Mike Haske
Mark Brown

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March 26, 2014

Mark Brown, Project Manager
RMPs for Western Oregon
Bureau of Land Management
P.O. Box 2965
Portland, Oregon 97208

By Regular Mail and Email
BLM_OR_RMPs_WesternOregon@blm.gov

Re: Comments Regarding Planning Criteria

Dear Project Manager:

The O&C Act requires that all lands biologically capable of producing timber

> "* * * shall be managed * * * for permanent forest production, and the timber thereon shall be sold, cut and removed in conformity with the principal [sic] of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities * * *." 43 USC §1181a.

The BLM planning process is currently on a course 90 degrees off of this statutory direction. If the course is not changed very soon, the process has no chance of reaching a legally defensible conclusion.

At a recent meeting to take comments on the Planning Criteria from elected officials, the BLM asked: "Do we have the range of alternatives right?" The answer is simply----no! By comparison with the range of alternatives that, after four intense years of study, produced the 2008 RMP, the range of preliminary alternatives outlined with the Planning Criteria is badly skewed and much too narrow. The EIS for the 2008 RMP looked at options in excess of 700 mmbf and eventually adopted an alternative that would have produced 502 mmbf of sustained yield harvest. The range of alternatives now under consideration does not appear to include any option that would sustainably produce much more than half of that amount. The 2008 RMP had a procedural defect, not a substantive flaw with regard to resource protection or timber production. There has been no change since 2008 that justifies the BLM making such drastic reductions in planned harvest levels.

The preliminary alternatives outlined with the Planning Criteria do not include any option that is consistent with the O&C Act, nor is the range of alternatives broad enough to test the extent to which potentially conflicting outcomes can be reconciled. This is a predictable consequence of the Purpose and Need statement, which has turned the O&C Act upside down, leaving economic considerations to the last, after every other consideration has been satisfied. Sustained yield of timber, under both the Purpose and Need and the Planning Criteria, is treated as a residual from lands that are left over after all other objectives are met. There appears to be no intent to try to optimize all values simultaneously. As a consequence, economic concerns will inevitably be given short shrift.

With all action alternatives clustered around preservation-oriented outcomes, there will be no examination of a reasonable range of alternatives that would disclose how to efficiently produce acceptable levels of environmental protections, while simultaneously producing economic benefits required by the O&C Act. This skewed and limited range of alternatives deprives the agency and the public of both information and meaningful choices, in violation of the National Environmental Policy Act. The Association of O&C Counties asks the BLM to stop and reconsider, as the path chosen is one of inevitable conflict between the BLM and the Counties that are intended by law to benefit from management of the O&C lands.

The Association of O&C Counties represents 17 counties in Western Oregon in connection with O&C lands management. These Counties contain 85 percent of the population of the State. Even if one excludes Multnomah County, which is a member of the Association, the remaining 16 member Counties have a combined population of 2,507,000. These citizens have elected Boards of Commissioners that choose for their Counties to be represented by the Association and speak for them in connection with their Federal statutory interest in the O&C Lands. The Association is not just one more voice among the public, it is an entity with substantial standing that is entitled to have its concerns given the greatest possible deference.

A history lesson concerning the O&C lands seems a poor way to excite sympathetic attention, but a reminder of legislative history is essential: There is no other way to fully appreciate what it is the BLM is supposed to be doing with the O&C lands----**which is, first and foremost, generating revenue for the 18 O&C Counties by growing and selling timber.**

A. History of the O&C Lands.

Between 1866 and 1870, Congress granted nearly 4,000,000 acres of land to the Oregon and California Railroad Company in exchange for a commitment to build a railroad through Western Oregon from Washington to the California border. The lands were conveyed to the Railroad Company with the proviso that they be sold in 160-acre parcels to "actual settlers" in order to promote the settlement and development of Western Oregon. The railroad was built, but the Railroad Company failed to honor its obligations to sell O&C lands to settlers as required by the grant.

Dissatisfaction festered and grew for 40 years until finally, under pressure from Oregon's citizens and local governments, Congress directed the Attorney General to enforce the terms of the grant against the Railroad Company. The litigation reached the U.S. Supreme Court, which

invited Congress to frame a remedy. Congress responded with the Chamberlain-Ferris Act of June 9, 1916, which declared that all grant lands still held by the Railroad Company were revested and provided for compensation to the Railroad for the O&C Lands thus returned to the United States.

Had the lands not been taken back by the federal government, they would have remained in private ownership, providing an economic base for private industry and a tax base for local governments. Congress recognized that revestment deprived Western Oregon of part of its economic foundation. The Chamberlain-Ferris Act therefore established the "Oregon and California Land-Grant Fund" within the United States Treasury, and provided a method for distribution of income from the lands. Once certain debts were paid, funds were to be distributed 25 percent to the O&C Counties, 25 percent to the State of Oregon and the remainder to the United States. The distribution method was designed to compensate the state and county governments for the fact that they derived no tax benefits from the revested lands.

> "* * * [T]he people in [the] State [of Oregon] were bitter in blaming the Federal Government for inaction in this situation for over fifty years. Moreover, the proposed revesting of title in the United States would remove from the tax rolls of the State these huge tracts of land, theretofore taxable, and in this transition, the schools and roads of the State would suffer. Congress recognized the justice of these claims, and it was for this purpose that it directed a division of the proceeds from the lands among the state, the counties, and the Federal Government." Clackamas County, Oregon v. McKay, 219 F.2d 479, 483 (9th Cir. 1954), judgment vacated as moot 349 U.S. 909 (1955).

Unfortunately, the Chamberlain-Ferris Act distribution method did not work. Between 1916 and 1926, very little revenue was derived from the O&C Lands. As a result, payments to Counties never materialized.

To assist the O&C Counties, Congress passed the Stanfield Act of July 13, 1926, which provided for payments from the general fund of the U.S. Treasury to the O&C Counties. The payments were in lieu of taxes which the O&C Counties could have collected had the O&C Lands been privately owned. The Stanfield Act provided that in lieu payments would be reimbursed from the O&C Counties' share of funds subsequently deposited in the O&C Land-Grant Fund from land and timber sales. To the extent that the Stanfield Act in-lieu payments exceeded the O&C Counties' share of the Fund, the excess became a reimbursable charge against the O&C Counties' share of the Fund. Between 1926 and 1936, the O&C Counties' share of revenues from the O&C Lands was insufficient to reimburse the United States for its Stanfield Act payments. There was therefore an ever-increasing reimbursable charge against the O&C Counties' share of the Fund. The system was not working to provide the Counties with revenues the way it was intended. Congress tried a third time.

In 1937 Congress passed the O&C Act. Prior inconsistent legislation was repealed and the system for distributing revenues from the O&C Lands was restructured. Once certain debts were satisfied, the O&C Counties were entitled to a total of 75 percent of all revenues from the O&C Lands. The remaining 25 percent was to be available for the costs of administering the

sustained-yield program under which the lands were to be managed by the Department of the Interior.

In 1953, the O&C Counties began to receive their full 75 percent share. After 1953, varying amounts to which the O&C Counties were otherwise entitled were retained by the federal government with the cooperation of the O&C Counties under annual Department of the Interior appropriation acts. After 1960, the O&C Counties received 50 percent of the revenues. An additional 25 percent was used for the administration of the O&C Lands and spent, in large part, within the O&C Counties. The remainder was deposited in the U.S. Treasury. By "plowing back" a portion of the revenue to which they were otherwise entitled, the O&C Counties raised the productivity of the lands.

It is evident from the history of the O&C Act that the O&C Lands are to be managed for the sustained yield production of timber, and therefore, revenue, to support the O&C Counties. Congress was critical of the policy under the Stanfield Act, which provided for liquidation of timber assets and sale of the land without regard to long-term benefits to local economies.

> "No provision was made for the administration of the land on a conservation basis looking toward the orderly use and preservation of its natural resources. The [Stanfield] act provided that the timber should be sold 'as rapidly as reasonable prices can be secured therefore on a normal market,' and the cut-over lands disposed of for agricultural purposes. Clean cutting was contemplated. Seed trees were not to be preserved, nor was an provision made for the protection of stream flow. The probable effect of such a cutting policy on community industries was not considered." Report to accompany H.R. 7618, 75th Cong. 1st Sess., No. 1119 at 2.

Congress looked to the O&C Act to provide authority to manage the lands on the basis of the then-emerging forestry science known as "sustained yield:"

> Only those lands classified as valuable for agricultural purposes will be open to homestead entry or purchase. Lands valuable for forage production will be devoted to grazing under adequate grazing regulations. All land classified as timber in character will continue in federal ownership and be managed for continued forest production on what is commonly known as sustained yield basis. Under such a plan the amount of timber which may be cut is limited to a volume not exceeding new growth thereby avoiding depletion of the forest capital. This type of management will make for a more permanent type of community, contribute to the economic stability of local dependent industries, protect watersheds, and aid in regulating stream flow." Report to accompany H.R. 7618 75th Cong., 1st Sess. No. 1119 at 2.

The above-quoted report concludes that the O&C Act "establishes a vast, self-sustaining timber reservoir for the future, an asset to the Nation and the State of Oregon alike. All of which is financed by the Lands themselves [sic]." Id. at 4.

B. The Purposes of the O&C Act.

The O&C Act has been interpreted many times by the courts as making timber production the dominant use for the O&C Lands. The other uses for the lands identified in the O&C Act are secondary uses, to be achieved through sustained-yield management. The O&C Lands are unlike most other federal lands, which are managed under multiple-use mandates where all possible uses are to receive equal consideration in the planning process. The O&C Act provides for a dominant use, timber production, not unlike legislation setting aside other lands for particular purposes such as wilderness, parks, scenic areas or historic preservation.

A 1990 Ninth Circuit Court of Appeals case states clearly and unambiguously that the overriding purpose of the O&C Act is to provide the O&C Counties with revenues through the sale of timber:

> " *** The purposes of the O&C Act were twofold. **First, the O&C Act was intended to provide the counties in which the O&C land was located with the stream of revenue which had been promised but not delivered** by the Chamberlain-Ferris Revestment Act ***. *** The counties had failed to derive appreciable revenue from the Chamberlain-Ferris Act primarily because the lands in question were not managed as so to provide a significant revenue stream; the O&C Act sought to change this. *** Second, the O&C Act intended to halt previous practices of clear-cutting without reforestation, which was leading to a depletion of forest resources." Headwaters, Inc. v. BLM, Medford Dist., 914 F2d 1174, 1183-84 (9th Cir. 1990) (citations omitted, emphasis added).

In Headwaters, the Ninth Circuit made clear that timber production and harvest was the way Congress intended to achieve the goals of a sustained revenue stream to the counties and support of local economies and industries. Just as important, the court identified what the O&C Act did NOT intend: In responding to the plaintiffs' argument that the O&C lands should be managed for the discretionary protection of owl habitat, the court stated that:

> " *** **Nowhere does the legislative history suggest that wildlife habitat conservation or conservation of old growth forest is a goal on a par with timber production, or indeed that it is a goal of the O&C Act at all**." Headwaters, 914 F2d at 1184.

The O&C Act does not give BLM authority to manage for discretionary protection of owl habitat or old growth if it is at the expense of timber production. If the BLM manages for owl habitat or old growth timber at the expense of timber and revenue production, it must demonstrate it is acting under compulsion of other statutory authority, and it must take all possible steps to reconcile the conflicting obligations.

Nor does the O&C Act oblige the BLM to provide opportunities for recreation, even though the provision of recreation facilities is explicitly mentioned in the O&C Act. Recreation was one of the expected outcomes of sustained yield timber management. Recreation is not a goal independent of, or in competition with, timber production. Recreation cannot be achieved at the expense of timber production and "balancing" is neither required nor permitted. In O'Neal v. U.S., 814 F2d 1285, 1287 (9th Cir. 1987), the Ninth Circuit Court of Appeals held:

" *** The provisions of 43 U.S.C. §1181a make it clear that the primary use of the revested lands is for timber production to be managed in conformity with the provision of sustained yield, and **the provision of recreational facilities as a secondary use. No duty is thereby established to provide for recreational use**." (Emphasis added.)

To summarize: The law requires the BLM to manage the O&C lands for sustained yield timber production for the purpose of generating revenue for the 18 O&C Counties. The BLM may NOT manage the lands for wildlife habitat, may NOT manage to produce stands of old growth timber, may NOT manage for wilderness characteristics and may NOT manage for recreational uses, if any such uses conflict with the production and sale of timber to produce revenue for the Counties. If the BLM chooses to manage any part of its lands for these non-timber purposes, it must be prepared to demonstrate that it is acting under compulsion of other legal requirements, and that it has no means of simultaneously satisfying the requirements of the O&C Act and the conflicting legal requirements.

C. The Limits of BLM Discretion and Minimum Harvest Levels.

The O&C Act requires that O&C Lands "which have heretofore or may hereafter been classified as timberlands, and power site lands valuable for timber, shall be managed . . . for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal of sustained yield . . . ." 43 USC §1181a. The Act makes clear: If it is timberland, it must be managed for sustained yield timber production. There remains, of course, at least some discretion in how the BLM implements this requirement - - - there are many ways to satisfy the requirement for sustained yield timber production. Such discretion in implementation does not, however, permit the BLM to withdraw lands from the land base dedicated to sustained yield timber production.

The BLM's limited discretion under the O&C Act was maintained by Congress in 1976, when Congress passed the Federal Land Policy and Management Act ("FLPMA"), which redefined the management direction for nearly all lands in the United States under the jurisdiction of the BLM, with the telling exception of lands managed under the O&C Act. FLPMA is a multiple use statute under which all uses for the land are given equal consideration, and the BLM has broad discretion in choosing the mix of uses it will adopt for lands managed under FLPMA. But Congress specifically preserved the dominance of timber production on the O&C lands by adopting section 701(b) of FLPMA, which says that "[n]otwithstanding any provision of this Act [FLPMA], in the event of conflict with or inconsistency between this Act and the . . .[O&C Act and Coos Bay Wagon Road Acts], insofar as they relate to management of timber resources, and the disposition of revenues from lands and resources, the latter Acts shall prevail."

1986 the Interior Solicitor was asked if the BLM had discretion to implement a plan for the protection of spotted owls. This was prior to the listing of the spotted owl, and therefore the Opinion does not address the tension between the ESA and the O&C Act. Rather, it addresses the limits of discretion under the O&C Act to manage for the benefit of unlisted species. The

legal opinion differentiated between lands managed by the BLM pursuant to FLPMA, and lands managed pursuant to the O&C Act. The Solicitor's opinion describes the difference as follows:

> "The freedom conferred on the Secretary under FLPMA is limited in one important way on certain federally-owned timberlands in western Oregon. There, any decision about managing northern spotted owls must be measured against the dominant use of timber production. * * * In deciding whether to establish a program for managing northern spotted owls on O&C timberlands, the Secretary, then, must decide if it is possible to do so without creating a conflict with the dominant use there—timber production. If the Secretary can manage northern spotted owls and still produce timber on a sustained yield basis in the O&C timberlands, the O&C Act in no way will preclude him from making that choice. * * * The converse, of course, also obtains. If a program for managing northern spotted owls conflicts with producing timber on a sustained yield basis in O&C timberlands, the O&C Act will preclude the program's application to that realty." Gale Norton and Constance Harriman, Associate Solicitors, Memorandum to James Cason, Deputy Assistant Secretary for Land and Minerals Management (October 28, 1986).

This 1986 Opinion has continuing relevance for any species that is not formally listed under the ESA. In the current planning process, the BLM must be prepared to explain its authority for departing from sustained yield timber production for the benefit of unlisted species, since the O&C Act does not provide such authority.

What about listed species, such as the spotted owl and marbled murrelet? Until 2007, the Counties assumed the ESA "trumped" the O&C Act in some respects. Specifically, it was assumed that the O&C Act mandate to manage all timberlands for sustained yield had to stand aside if such management was inconsistent with the ESA's section 7(a)(2) requirement that "each Federal Agency shall, in consultation with . . . [the Secretary of Interior or Commerce] insure that any action authorized, funded, or carried out by such agency . . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined . . . to be critical . . . ." 16 USC §1536(a)(2). The Counties assumed that the creation of reserves, otherwise impermissible under the O&C Act, were appropriate if necessary to avoid jeopardy to a listed species, and that O&C lands, if designated as critical habitat, could be withdrawn from timber production for the benefit of listed species. That assumption changed in 2007, when the United States Supreme Court reversed the Ninth Circuit Court of Appeals in a decision that limits the scope of the ESA.

The Homebuilders v. Defenders of Wildlife case did not involve the O&C Act, but its holding directly affects the extent to which the BLM may respond to the "no jeopardy" and "no adverse modification" requirements of the ESA. The key holding in the case is as follows:

> "§7(a)(2)'s no-jeopardy duty covers only discretionary agency actions and does not attach to actions . . . that an agency is required by statute to undertake once certain specific triggering events have occurred. This reading not only is reasonable, inasmuch as it gives effect to the ESA's provision, but also comports with the canon against implied repeals [of other, earlier, conflicting legislation] because it stays §7(a)(2)'s

mandate where it would override otherwise mandatory statutory duties." Natl. Ass. of Homebuilders v. Defenders of Wildlife, 551 U.S. 644, 669 (June 25, 2007). (Emphasis in original.)

The Homebuilders decision is part of the legal framework for the development of alternatives in the BLM's planning process. Since the O&C Act says all timberlands must be managed for sustained yield timber production, the BLM may not create reserves to avoid jeopardizing a listed species or to avoid adversely modifying critical habitat, since section 7(a)(2) of the ESA does not impliedly repeal the O&C Act's nondiscretionary mandate to implement sustained yield forestry on all timberlands. What remains subject to §7(a)(2)'s "no jeopardy/no adverse modification" requirement is the BLM's exercise of discretion in choosing the particulars of the sustained yield timber management that it will employ. The BLM can and must seek to avoid jeopardy and adverse modification, short of withdrawing timberlands from sustained yield production.

How far can the BLM go in its choice of management techniques selected for the benefit of listed species, or for other purposes that might diminish timber production and revenues for counties? In fact, the O&C Act has a floor below which the BLM may not go with its timber sale program. The O&C Act, 43 U.S.C. §1181a says the following:

> "The annual productive capacity for such lands shall be determined and declared as promptly as possible after August 28, 1937, but until such determination and declaration are made the average annual cut therefrom shall not exceed one-half billion feet board measure: *Provided*, That timber from said lands in an amount not less than one-half billion feet board measure, or not less than the annual sustained yield capacity when the same has been determined and declared, shall be sold annually, or so much thereof as can be sold at reasonable prices on a normal market." (Italics in original, underlining added.)

This language clearly mandates a harvest range. The range has a rock-bottom minimum of one-half billion board feet per year, but may be up to the sustained yield capacity of the lands. The statute equates the "sustained yield capacity" with the "annual productive capacity"---the two terms refer to the same thing. "Sustained yield capacity" relates to tree growth and harvest rotation ages, it is not something that is administratively determined by application of discretion to withdraw lands or dedicate them to purposes other than timber production. It is a measurement, not a choice.

This range, then, defines the BLM's decision space----the BLM has discretion to adopt management practices that result in harvest levels of between 500 mmbf and the maximum sustained yield capacity of the lands, but in no event can it plan for harvest of less than 500 mmbf. This decision space defines the limits of the BLM's discretion to respond to the requirements of the ESA with respect to listed species. It also defines the limits of discretion under the O&C Act to manage the O&C (and Coos Bay Wagon Road) lands for unlisted species, provide for recreation and to produce other non timber benefits. The range of discretion is actually quite broad: The sustained yield capacity of the lands was previously determined by the BLM to be approximately 1.2 bbf per year, and a lower boundary of 500 mmbf means the BLM

is permitted to devote almost 60 percent of the productive capacity of the lands to purposes other than timber production that produces revenue for the counties.

To summarize: The BLM has a mandatory, nondiscretionary obligation to manage all lands for sustained yield and to offer for sale minimum volumes of timber. The BLM may not create reserves to avoid jeopardizing a listed species or to avoid adversely modifying critical habitat, since, under the Homebuilders decision, section 7(a)(2) of the ESA does not impliedly repeal the O&C Act's nondiscretionary mandates. Furthermore, the O&C Act contains a mandatory minimum harvest level (500 mmbf) that may not be sacrificed in order to comply with ESA section 7(a)(2). However, to the extent the BLM has discretion in choosing the silvicultural practices or rotation ages it will employ in sustained yield timber production and to achieve the minimum harvest level, section 7(a)(2) does apply.

If the BLM chooses to manage any part of its lands for non-timber purposes, and as a consequence the planned harvest level would fall below the mandatory minimum of 500 mmbf, the BLM must be prepared to demonstrate that it is acting under compulsion of legal requirements other than the ESA, and that it has no means of simultaneously satisfying the requirements of the O&C Act and the alleged conflicting legal requirements. When this planning process is done, the BLM will be held to account for any departures from the O&C Act. The agency would serve itself and the public best by confronting that reality now, and adjust the course of its planning process to align with requirements of the O&C Act.

D. A Flawed Purpose and Need Statement Infects All that Comes After.

The Counties identified the fundamental flaw in the process early, and County representatives met with State Director Perez and Mark Brown, the Planning Project Manager in July, 2013, to express grave reservations about the path the BLM had chosen. Following that meeting, the Counties reiterated their concerns in a letter sent to Mr. Perez in early August. We now restate the concerns previously made, by quoting from the letter to the BLM of August 7:

> "Thank you for meeting with the representatives of this Association on July 19, 2013, to hear our concerns about the Purpose and Need Statement ("PNS") for the Western Oregon planning effort. The Association of O&C Counties continues to have serious reservations about how the PNS will be used to limit the scope of alternatives that will be analyzed in the planning process. If this process proceeds as indicated in the PNS, the result will be failure to analyze a reasonable range of alternatives, a violation of one of the most fundamental planning obligations of the agency.
>
> "The PNS is a significant departure from the Notice of Intent (NOI) published in the Federal Register on March 9, 2012. The NOI acknowledges that the vast majority of the BLM administered lands in the planning area are O&C and CBWR lands, managed under the statutory authority of the O&C Act of 1937. The NOI further states that the RMPs and EIS will conform to this statutory requirement and will comply with the Endangered Species Act, Clean Water Act, NEPA and other Federal laws. The PNS, however, emphasizes meeting regulatory compliance objectives first, prior to meeting BLM'S

statutory obligations under the O&C Act. The PNS provided no discussion about how the statutory requirements and the regulatory requirements should be met simultaneously.

* * *

"The PNS guides the development of plans by establishing sideboards for the development of alternatives to be considered. It also has the potential for creating false expectations and outcomes. The PNS appears to limit the range of alternatives in a way that forecloses consideration of any alternative designed to simultaneously comply with the O&C Act and meet regulatory constraints imposed by the ESA, the Clean Water Act, and other legislation. Failure to include such an alternative means that the BLM will not even evaluate the possibility of accomplishing what we believe is required by the law. The BLM's 2008 RMPs proved that it is possible to achieve the required outcomes by seeking the most efficient means of achieving otherwise competing values simultaneously, rather than serially, as it appears is being required by the PNS. Limiting evaluation of alternatives in this manner is rigging the process in a way that assures an outcome completely unacceptable to the intended beneficiaries of the O&C Act, the O&C Counties.

"At the meeting Mark Brown stated that many things are not expressed in the PNS that will further evolve in the Planning Criteria. We suggest that the changed economic circumstances of the counties and the implications of returning to timber sale receipts as the source of revenue be acknowledged. That would form the basis for adding the generation of revenue as an objective of the plan as intended under the O&C Act. The Planning Criteria could also establish clearer standards that reflect the NOI for compliance standards for ESA and CWA."

The BLM did not respond to this letter and, based on what has been published in the Planning Criteria, the BLM has so far chosen to ignore the Counties' concerns.

E. Specific Comments.

1. The barred owl encounter rate for the northern spotted owl is a significant factor in determining the effectiveness of any management strategy, and that factor should be assessed using each alternative's modeled owl population response. A reference analysis should be performed to illustrate the extent to which the encounter rate affects the outcomes. Such a reference analysis would also inform the BLM how barred owl control measures might potentially be part of a management solution.

2. The BLM's 2008 Resource Management Plan should be added as an alternative. That plan met most of the Counties concerns and could be incorporated as an alternative without burdening the planning process:

- It is an on the shelf Alternative with management direction that meets the 500 mmbf minimum of the O&C Act.
- It reflects four years of study at the cost of $18 million of the taxpayers' dollars.

- It was withdrawn based on a procedural defect, not because it was flawed in any way as a management strategy.
- It is a significant benchmark that should be tested with the spotted owl analytical procedures described in the Planning Criteria.

3. Utilize criteria to limit retention of older more structurally complex forest that is tied to owl use, need for recovery, and effectiveness in the checkerboard context. If by definition designated critical habitat is "essential" for owl conservation then there should be no reason to retain older forest outside of what has been deemed essential.

4. Analyze retention of older, more structurally complex forest as a sub alternative to each alternative. There is no legal basis for retaining older, more structurally complex forest under the O&C Act and any such action must be justified parcel by parcel with reference to other statutory requirements. The broadbrush approach now contemplated is based on the advisory "Recovery Action 32" and lacks a firm foundation of analysis of effectiveness and need on these specific lands for recovery of the spotted owl. Addressing the need and effectiveness question would best be served through comparative "with and without" analyses under each alternative.

5. "Dry" forest and uneven aged management should be tied directly to actual forest conditions where there is need to improve fire resiliency. Accepting the lower sustained yield related to uneven aged management should be tied to actual, observed forest needs.

6. Eliminate Alternative D. There is no legal basis to manage all of the O&C for NSO habitat.

7. Alternative B is excessive in not applying scientifically-based size and spacing criteria to the large block design. Alternative C arbitrarily expands the size of the large blocks from their original managed owl conservation area design without a rationale that would support the resulting diminishment of timber available for harvest. Determining where large blocks are capable of forming should be a sensitivity analysis applied to the requested 2008 RMP alternative.

8. O&C forest lands allocated for uses associated with regulatory compliance (ESA, Clean Water Act, etc.) that preclude sustained yield timber production can be held in such allocations only for so long as the statutory justification (ESA, Clean Water Act, etc) applies. For that reason, those lands should not also receive a land use allocation for management for wilderness characteristics or as special recreation management areas, as those designations do not have a statutory imperative. Any consideration of managing for wilderness characteristics or as special recreation areas as indicated on pages 9 and 10 of the Planning Criteria must be either deleted, or it must be specifically acknowledged that such a management overlay can exist only for so long as the underlying statutory support (based on the ESA, Clean Water Act, etc.) continues to be valid.

F. Conclusion.

The Association of O&C Counties is the representative of Counties that are the direct and intended beneficiaries of economic benefits produced from the O&C lands. The BLM has been in retreat from its obligations under the O&C Act for 20 years, and in this planning process is on the verge of complete abandonment, without even a pretense of compliance. The financial support from the separate Secure Rural Schools and Community Self Determination Act legislation that made it possible for the Counties to overlook violations of the O&C Act is now gone. Communities are crumbling under the combined destructive influences of severely diminished volume available to support jobs in the wood products sector of the economy, and drastically reduced revenues to support public services supplied by the Counties. The Counties request that the direction of the planning process be corrected before the BLM proceeds further on the collision course it is now following.

Very truly yours,

Doug Robertson, President

Tony Hyde, Vice President

Faye Stewart, Secretary-Treasurer

cc: Sally Jewell, Secretary, DOI
Neil Kornze, Principal Deputy Director, BLM
Steve Ellis, Deputy Director for Operations, BLM
Jerry Perez, Oregon State Director, BLM
Mike Haske, Oregon Deputy State Director
BLM O&C Land District Managers
Senator Ron Wyden
Representative DeFazio
Representative Schrader
Representative Walden

Statement by AOCC – Range of Alternatives

February 19, 2015 CAAG

We all need to remember that the O&C lands are unique amongst the Federal lands. The Federal government does not pay taxes yet owns the majority of the land in the rural counties of western Oregon. They are unique because of the direction to manage the forest under the principles of sustained yield as a means to generate revenue for the 18 O&C counties. This is the foundation of why they were designated as O&C lands and distinguishes them from other Federal lands.

The BLM's Purpose & Need focused on a range of strategies based largely on terrestrial and aquatic objectives. The land base for sustained yield management resulted from what remained after all of these reserve designations were made. These "Reserve" based conservation strategies were informed by previous work that was likely to have good outcomes. From what has been shared to date, and as anticipated, the results for those objectives show a relative narrow range of positive outcomes that are in fine degrees.

The design of the alternatives resulted in a very narrow range on the size of the lands allocated to sustained yield, which are similar to or smaller than the NWFP. The degree sustained yield management can simultaneously provide for conservation and economic objectives has not been rigorously explored and objectively evaluated by the BLM with this limited range of alternatives.

When the "Reserve" label is assigned to the land base by definition it precludes sustained yield management and the opportunity for those lands to contribute to sustainable economic benefits for future generations. The same is not true when the "Sustained Yield" label is assigned to the land base. The use of extended rotations and retention has demonstrated that simultaneous achievement of sustainable timber production and habitat conditions are possible. In all of the Action Alternatives BLM has departed from long standing minimum harvest age of at or above culmination of mean annual increment (CMAI). The Alternative C sub alternative of no harvest of 80+ resulted in a harvest of 334 MMBF when earlier analysis based on CMAI indicated 96 MMBF. Is sustained yield management departing from CMAI and using optimization in the modeling tending towards a management style closer to private industrial lands? Has BLM fully explored longer sustained yield rotations on large land bases under these alternatives? – No.

The Maxtent model assigns "Relative Habitat Suitability" based on concentration, structural stage, position on the landscape, and other factors. BLM has placed upfront "Reserves" for older more structurally complex forest based on simplistic broad brush age based criteria for the most part. This ignores the reality that it is more than age of an individual stand which indicates the degree it contributes biologically for owl conservation. The Planning Criteria stated the "alternatives would explore differing approaches to defining older and more structurally complex multi-layered conifer forest, by such criteria as stand age, structure, size, or landscape context." The alternatives do not reflect exploring the relative landscape context in the need for establishing these reserves and precluding sustained yield.

Other questions remain unanswered by this narrow range of Alternatives.

- Could long rotations, with creating complex early seral conditions on a limited scale, be applied to younger and middle age portion of the large block reserves to create a range of habitat conditions? Does the entire large block need to go to older forest? Would not a mix of complexity and seral stages and structural complexity be beneficial for overall ecological diversity?

- Can the existing older forest stand reserves be managed under a regime with legacy retention on a long rotation but still be managed on a Sustained Yield basis? The Alternatives reserve between 655-429,000 acres of older more structurally complex forest. Regeneration harvest levels under the NWFP and 2008 RMP ranged between 60-76,000 acres over a decade – a fraction of what is reserved. Older more structurally complex forest across the landscape will be increasing in the large blocks and riparian reserves. Are the additional reserves necessary or could timing of harvest and silviculture regimes achieve similar outcomes on a sustained yield basis? We don't know by these Alternatives.

- It appears uneven aged management areas were defined by various geographic determinations of "dry forest" loosely tied to a need to improve forest resiliency. To date we have not seen where there has been an assessment of the actual forest conditions to rank the level of need, and extent of the forest for resiliency treatments. Uneven aged management is an effective approach for improving resiliency but it comes at a cost of the sustainable harvest level. Is it not reasonable that a stand condition based needs approach should be evaluated as an alternative? How would this compare to predefined geographic condtions?

The BLM in the Purpose & Need did not identify revenue as an objective despite that it is foundational as why these lands were designated as O&C. The range of revenue outcomes for rural Oregon counties has a much wider range than most other outcomes and a direct effect on the rural communities and industries. At best it is 50% of historic payments and in most Alternatives 14-27%.

AOCC has concern that the upfront decisions to limited range on the amount of land allocated to sustained yield has artificially limited the understanding what is possible by a fuller expression of the range of how sustained yield could be conducted, and the range of revenue outcomes.

The planning process is a very unique opportunity which brings together the BLM professional expertise, the knowledge of the Cooperators, and data/models to build this understanding of how the BLM can simultaneously make significant contributions to both conservation and economic objectives. Evaluation of a broader range of sustained yield approaches, on a broader land base, is essential to the understanding of what is possible.

BOARD OF COMMISSIONERS
205 NW 5th Street
PO Box 3020
Corvallis, OR 97339-3020
541-766-6800
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August 19, 2015

Mr. Jerome Perez, State Director OR/WA
Bureau of Land Management
P.O. Box 2965
Portland, Oregon 97208

RE: Western Oregon Resource Plan Management Revision/EIS comments

Mr. Perez:

We appreciate the opportunity to comment on the Draft Resource Management Plan (RMP/Environmental Impact Statement (EIS) Revisions for Western Oregon. As you know, Benton County is a cooperating agency separate from the Association of O & C Counties (Benton County is not a member of the Association).

On behalf of Benton County, my comments will focus more on observations and general recommendations rather than on the preferred or other alternatives. My colleagues and I represent diverse community interests and scientific opinion and have received commentary on the RMP. It is our belief that management focused on forest health and resiliency should be a major factor considered in any plan revisions. Management considerations must include looking at the forest ecosystem as a whole with focus on soil dynamics, hydrology, water function, air quality and other forest resources as well as timber productivity. We recognize that there are numerous competing interests in this effort, nevertheless, healthy and resilient forests can provide for these multiple values with careful planning.

We acknowledge that harvest receipts (or county payments) are the lifeblood of several O & C Counties. We are not convinced that harvest levels can be restored to historic high levels. We have to find a way to reach a new compact with the federal government that will provide some form of compensation for significant land acreage exemptions from tax rolls. Interpreting the 1937 Act should not ignore the Clean Water and Air Acts and other legislation. We do not believe that timber harvest is the only answer.

In the interest of cooperation we recommend:

- Plan revisions should focus on sustainable forest ecosystem resources as well as harvest. I was on the Federal Forestlands Advisory Committee (for Oregon Board of Forestry) about eight years ago and in those discussions there was agreement that restoring forest health and resiliency was vital to bringing our forests back into production. The current planning process has acknowledged this and the environmental consequences for each alternative.

- Expanding economic measures of success to include other values such as those achieved by the requirements of the Clean Water and Air Acts, enhancement of fisheries, recreation and other forest resources.

- A continuing focus on climate change and its impacts on all resources. It is clear to us that we cannot ignore it any longer. Changing forest conditions (i.e., drier hot summers and buildup of fuels) will continue to increase the occurrence of wild fires. Species composition will also change.

- Continuing collaboration with federal, state and local public partners. Collaboration will also be needed with private landowners in the checkerboard areas. Land exchanges could be a tool in active management strategies.

- Continuing to build broader community support to reduce the polarization that has led to litigation. We believe that successful forest management can go hand in hand with diverse community values.

We appreciate the attention given to changing forest dynamics in the planning process. As more demands are placed on federal forest management, the complexity of the work increases. I commend BLM staff for their thoughtful presentations, and attention given to the discussions. Balancing the competing interests of the cooperating agencies was not an easy task. I have enjoyed working with all of them.

Again, we appreciate being part of the cooperating agency advisory group. Thank you for the invitation. We recognize that the RMP revisions will replace existing RMPs in accordance with the National Environmental Policy Act of 1969 (as amended), the Federal Land Policy and Management Act of 1976 (as amended), the BLM NEPA Handbook (H-17990-1), the BLM Land Use Planning Handbook (H-1601-1) and other applicable laws and policies.

We look forward to seeing the final plan. You are receiving this letter. Additionally, we are forwarding our comments to rmpwo_comments@blm.gov

Sincerely,

Annabelle Jaramillo
Commissioner

cc. Commissioner Jay Dixon
Commissioner Anne Schuster

Jasmine Benjamin

From: m1allen@blm.gov on behalf of RMPWO_Comments, BLM_OR <blm_or_rmpwo_comments@blm.gov>
Sent: Friday, August 21, 2015 1:08 PM
To: RMP-Comments@heg-inc.com
Subject: Fwd: Letter of Comment from Jackson County, Oregon, Board of Commissioners
Attachments: 2015_07_15_RMP_EIS_signed.pdf

---------- Forwarded message ----------
From: **RMPs_WesternOregon, BLM_OR** <blm_or_rmps_westernoregon@blm.gov>
Date: Fri, Aug 21, 2015 at 8:26 AM
Subject: Fwd: Letter of Comment from Jackson County, Oregon, Board of Commissioners
To: BLM_OR RMPWO_Comments <blm_or_rmpwo_comments@blm.gov>

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Resource Management Plans for Western Oregon
Bureau of Land Management
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Before including address, phone number, email-address, or any other personal identifying information in your comments, be advised that your entire comment, including personal identifying information, may be made publicly available at any time. If you wish us to withhold your personal information you must state this prominently at the beginning of your comment. While individuals may request that the BLM withhold personal identifying information from public view, the BLM cannot guarantee it will be able to do so.

You have received this email because you have previously submitted a request to be on the mailing list, stakeholder list, submitted a comment, feedback or survey response and/or indicated interest in the RMPs for Western Oregon.

---------- Forwarded message ----------
From: **BOC-CAO_ADMIN** <BoC-CAO_Admin@jacksoncounty.org>
Date: Wed, Jul 15, 2015 at 2:21 PM
Subject: Letter of Comment from Jackson County, Oregon, Board of Commissioners
To: "BLM_OR_RMPs_WesternOregon@blm.gov" <BLM_OR_RMPs_WesternOregon@blm.gov>

Attached please find a letter from the Jackson County, Oregon Board of Commissioners.

This letter has also been sent via Certified Mail.

Sincerely,

Loris Fenner

Executive Secretary

Board of Commissioners

10 S. Oakdale, Room 214

Medford, OR 97501

541-774-6004

FennerLM@jacksoncounty.org

JACKSON COUNTY
Oregon

JACKSON COUNTY
Oregon

Board of Commissioners

Rick Dyer (541) 774-6118
Doug Breidenthal (541) 774-6119
Colleen Roberts (541) 774-6117
Fax: (541) 774-6705

10 South Oakdale, Room 214
Medford, Oregon 97501

July 15, 2015

VIA CERTIFIED MAIL AND EMAIL

RMPs for Western Oregon
Bureau of Land Management
Mr. Jerome Perez, State Director
P.O. Box 2965
Portland, Oregon 97208
BLM_OR_RMPs_WesternOregon@blm.gov

Dear Mr. Perez:

Please accept this letter as Jackson County's comments on the Bureau of Land Management's ("BLM") Draft Western Oregon Resource Management Plan ("RMP")/Environmental Impact Statement ("EIS"). Unfortunately, as the County was not permitted to participate in the creation of the Draft RMP/EIS as a cooperating agency under the National Environmental Protection Act ("NEPA"), this is the County's first opportunity to provide comment on the RMP/EIS. Additionally, the initially announced public comment period of only 90 days is an extremely short period of time for any entity to digest and comment upon a document as lengthy, wide ranging, and consequential as the Draft RMP/EIS. This short period of time for review is particularly difficult for the County, as the County was also excluded from the coordination process under the Federal Land Policy and Management Act ("FLPMA"). Given the RMP's potential impacts to the County, its plans and policies, its citizens, its economy, and its environment, the mere 90 days initially authorized to review the draft RMP/EIS was insufficient. The brief extension of the public comment period to August 21, 2015 still does not provide sufficient opportunity for Jackson County to thoroughly review and comment on the extensive impacts to the County that the adoption of this draft as the final RMP would impose. By excluding Jackson County from the coordination and cooperating agency process and by declining to consider the County's plans and policies, BLM failed to adequately consider and address those impacts in the Draft RMP/EIS and failed to comply with FLPMA and NEPA.

FLPMA requires BLM to coordinate with local governments, to keep apprised of local government plans and policies, provide for meaningful involvement of local officials, and to attempt to reconcile any inconsistencies between BLM's proposed action, and the local government's plans. Under FLPMA, BLM:

> shall . . . coordinate the land use inventory, planning, and management activities of or for such lands with the land use planning and management programs of . . . local governments within which the lands are located . . . by, among other things, considering the policies of approved State and tribal land resource management programs. In implementing this directive, the Secretary shall, to the extent he finds practical, keep apprised of State, local, and tribal land use plans; assure that consideration is given to those State, local, and tribal plans that are germane in the development of land use plans for public lands; assist in resolving, to the extent practical, inconsistencies between Federal and non-Federal Government plans, and shall provide for meaningful public involvement of State and local government officials, both elected and appointed, in the development of land use programs, land use regulations, and land use decisions for public lands, including early public notice of proposed decisions which may have a significant

> impact on non-Federal lands. Such officials in each State are authorized to furnish advice to the Secretary with respect to the development and revision of land use plans, land use guidelines, land use rules, and land use regulations for the public lands within such State and with respect to such other land use matters as may be referred to them by him. Land use plans of the Secretary under this section shall be consistent with State and local plans to the maximum extent he finds consistent with Federal law and the purposes of this Act.

43 U.S.C. § 1712(c)(9). There is no evidence in the Draft RMP/EIS whatsoever that BLM attempted to coordinate with the County, provide for meaningful input from Jackson County's officials, kept apprised of Jackson County's local plans or policies during the creation of the Draft RMP/EIS, or attempted to reconcile inconsistencies between the proposed action and the County's plans and policies.

Further, FLMPA's implementing regulations contain additional and more specific provisions for input from and consideration of a local government's plans, policies, and laws. These regulations are designed to ensure that the BLM coordinates with local governments and accounts for local plans and policies with an aim to harmonize federal plans with those of affected local entities. For instance, 43 C.F.R. § 1610.3-1 provides, among other things, that BLM keep apprised of non-BLM plans, assure that BLM consider germane local plans, assist in resolving inconsistencies between federal and local plans, provide for meaningful involvement from local government officials, collaborate and cooperate with local governments, and provide affected local governments with the opportunity to review, prepare, and respond to BLM plans beyond what is available to members of the public. See also, 43 C.F.R. § 1601.0-2 (ensuring the participation in planning by local governments); 43 C.F.R. § 1610.3-2 (providing for consistency, where practicable, between RMPs and local government plans and policies and requiring BLM to keep apprised of such plans and policies); 43 C.F.R. § 1610.4-1 (providing for participation from local governments "at the outset of the planning process"); 43 C.F.R. § 1610.4-2 (providing for coordination with local governments); 43 C.F.R. § 1610.4-4 (providing for consistency with the policies, plans, and programs of local governments); 43 C.F.R. § 1610.4-7 (providing for enhanced participation from local governments).

Thus, BLM was required to not only coordinate with the County as an affected local government, but was also required to take into account the County's plans, programs, and policies. Importantly, FLMPA's requirements to coordinate with local governments are independent from its mandate to account for local government plans and policies. Here, BLM failed on both counts. The County was excluded from coordination and in-so-far as there is not a single reference to any Jackson County plan, policy, or program in the Draft RMP/EIS, it does not appear that BLM kept apprised of, much less attempted to resolve any inconsistencies with Jackson County's plans and policies. Included amongst the plans and policies BLM should have accounted for are Jackson County's Federal Coordination Policy, the County's Natural Hazard Mitigation Plan, the Jackson County Integrated Fire Plan (this plan constitutes the County's Community Wildfire Protection Plan), the County's Emergency Operations Plan, and the County's Comprehensive Plan.

NEPA also contains provisions for cooperation with and consideration of input from local governments as well as consideration of a local government's plans, policies, programs, and laws. NEPA's stated purpose is for:

> the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

42 U.S.C. § 4331(a). NEPA's implementing regulations contain specific provisions to ensure that federal agencies participate with local governments to meet the Act's goals. For instance, 40 C.F.R § 1506.2, provides that federal agencies "shall cooperate with . . . local agencies to the fullest extent possible." That cooperation should include joint planning, joint research and studies, joining public hearings, joining environmental assessments, consideration of local plans, policies, laws and efforts to resolve inconsistencies between local plans and the BLM's proposed actions. Id.; see also, 40 C.F.R § 1501.6 (providing for cooperating agencies).

As with FLMPA, BLM failed to comply with NEPA's provisions with regard to Jackson County in the preparation of the Draft RMP/EIS. BLM did not cooperate with the County to "the fullest extent possible" but instead excluded the County from the process. Importantly, BLM also failed to consider, much less attempt to resolve inconsistencies with the County's plans and policies. Included amongst those plans and policies are Jackson County's Federal Coordination Policy, the County's Natural Hazard Mitigation Plan, The Jackson County Integrated Fire Plan (this plan constitutes the County's Community Wildfire Protection Plan), The County Emergency Operations Plan, and the County's Comprehensive Plan.

Thank you for the opportunity to comment on the Draft RMP/EIS. However, in our view, the BLM has failed to coordinate or cooperate with the County outside of this public comment period and has failed to account for the RMP's impacts on the County, its plans and policies, its citizens, its economy, and its environment. In our view, BLM should restart its analysis of the RMP, should coordinate with the County, should include the County as a cooperating agency, and should consider, incorporate, and resolve inconsistencies with affected County plans and policies before making any final decisions.

Sincerely,

Doug Breidenthal, Chair
Board of Commissioners

cc: Rick Dyer, Commissioner
Colleen Roberts, Commissioner
County Administrator
County Counsel
Senator Jeffery A. Merkley
Senator Ron Wyden
Representative Earl Blumenauer
Representative Suzanne Bonamici
Representative Peter A. DeFazio
Representative Kurt Schrader
Representative Greg P. Walden

LANE COUNTY BOARD OF COMMISSIONERS

August 18, 2015

RMPs for Western Oregon
Bureau of Land Management
P.O. Box 2965
Portland, Oregon 97208

Re: Western Oregon Draft Resource Management Plan/Environmental Impact Statement Comments

The Board of County Commissioners for Lane County, Oregon is submitting the following comments regarding the Draft Resource Management Plan/Environmental Impact Statement for Western Oregon Resource.

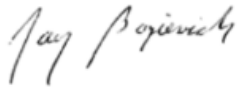
Lane County is submitting these comments on behalf of the citizens of Lane County and in its role as the local government responsible for land use planning and management within Lane County.

Pursuant to the Federal Land Policy and Management Act of 1976 ("FLPMA") – the organic act that establishes the BLM's planning mandates – the BLM is to the extent consistent with the laws governing the administration of the public lands, coordinate the land use inventory, planning and management activities of, or for, the BLM managed lands within Lane County with the Board of County Commissioners for Lane County by considering the policies of germane local planning. (*See* 43 U.S.C. §1712(a)(9)).

After analysis of the draft plan, the Board of County Commissioners has noted a number of inconsistencies with the agency's findings, particularly within the agency's analysis of the social and economic impacts of the proposed actions. For this reason, the Board of Commissioners cannot endorse any of the alternatives, and requests that the agency more fully align at least one alternative with the clear mandate of the O&C Act to manage the lands "in conformity with the principle of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities."

The attached comments are respectfully submitted to the Bureau of Land Management and more fully explain the findings of the Board of County Commissioners.

Sincerely,



Jay Bozievich, Chair
Board of County Commissioners

cc: Sally Jewell, Secretary, DOI
Neil Kornze, Principal Deputy Director, BLM
Steve Ellis, Deputy Director for Operations, BLM
Jerry Perez, Oregon State Director, BLM
Mike Haske, Oregon Deputy State Director, BLM
Kathy Stangl, Eugene District Manager, BLM
Senator Ron Wyden
Senator Jeff Merkley
Representative Peter DeFazio

FINDINGS AFTER REVIEW, BLM DRAFT RESOURCE MANAGEMENT PLAN
Lane County Board of Commissioners, August, 2015

A. Planning Process Violates the Purpose of the 1937 O&C Act

Lane County has previously commented on the Planning Criteria (purpose and need statements) through its participation as a member in good standing with the Association of O&C Counties, a cooperating agency established under the federal regulatory framework established to govern planning efforts, but is repeating this message within its authority as a discreet governing body.

The lands addressed by the Draft Resource Management Plan (DRAFT RMP) have long been the topic of federal planning and law making, going back to Congressional efforts in the late 1800's to establish an overland link between the eastern and western United States, and particularly the economies of the Pacific Northwest to those established in central California.

Ultimately that link was established, but not without an interesting history involving fraudulence by a railroad corporation and the arrest and imprisonment of several members of Oregon's state and federal delegation. The "O&C" lands were established through a reverting of the lands to federal ownership and management, and the passage of the O&C Act of 1937.

The Congress and the courts have long examined the 1937 law. These examinations included extensive efforts to determine the intent of Congress when passing this law, and that intent becomes central to the Board's finding that the BLM (Agency) "missed the mark" in establishing a range of alternatives that elevate other goals over the clear purposes of the O&C Act.

The Board finds that all alternatives must start and end with intent as their foundation.

That intent was perhaps best illustrated in the well-publicized decision by the Ninth Circuit Court of Appeals in *Headwaters, Inc. v. BLM, Medford Dist.,* found the primary purpose of the O&C Act was intended to provide counties in which the O&C land was located, with the stream of revenue that had been promised but not delivered through previous Congressional acts, including land grant acts that promised to ensure the welfare of the region by hastening the development of western Oregon.

It is clear that the DRAFT RMP was structured to encompass issues other than ensuring a stream of revenue to counties. The structure was designed through establishment of a purpose and need statement that includes[1]:

- Providing a Sustained Yield of Timber
- Conservation and Recovery of Threatened and Endangered Species
- Provide Clean Water in Watersheds

[1] BLM Draft Resource Management Plan, page 5

- Restore Fire-Adapted Ecosystems
- Provide for Recreation Opportunities
- Coordinate Management of Lands Surrounding the Coquille Forest with the Coquille Tribe

In examining the DRAFT RMP thus established without an emphasis on county revenues, the Board finds:

- A minimization of analysis within the resultant alternatives regarding county revenue, and in some cases analysis that is flawed in its assumptions, presentation, and conclusions.
- An apparent arbitrary selection of FY 2012 harvest revenue as a benchmark of annual harvest revenue.
- Every alternative, including No Action, produces less revenue than historic payments (over the past half-century).
- The Agency's preferred Alternative B will exacerbate county poverty conditions and county service delivery issues in Southern Oregon.
- Significant amounts of land placed into reserves, which eventually removes these lands from timber production of any kind.
- Timber harvests which produce smaller diameter volume are generally of lower value, generate less revenue, and compete negatively with current industry growth and harvest practices.
- An over-zealous estimation of recreation-based revenue, little to none of which accrues to counties in a form that enables service delivery.
- A fiscal analysis of carbon storage, none of which accrues to counties, coupled with future wildfire occurrence and severity that did not incorporate projections of the effects of climate change.
- No analysis of wildfire response issues, or other public safety implications (search and rescue) stemming from federal land management issue.
- A lack of consistency with Lane County's Rural Comprehensive Plan, specifically with regards to Goal 4: Forest Lands, which supports efforts by state and federal agencies to develop plans that address projected shortfalls in timber supplies.

B. The Socioeconomic Analysis does not properly inform the public or decision makers

Lane County has been an active participant in local, state, and federal advocacy efforts related to the impacts of federal forest management within Lane County, across the planning area, across Oregon, and in other states impacted by the presence of US Forest Service lands.

In examining the DRAFT RMP, and in particular the Socioeconomic Analysis contained within Volume 2, the Board was dismayed to see how the Agency attempts to lead the reader to various conclusions that minimize the importance of these lands to county government and public services. Moreover, the design of this section appears to conclude that the lands are revenue generators and thus impact the surrounding communities in the same way that tax

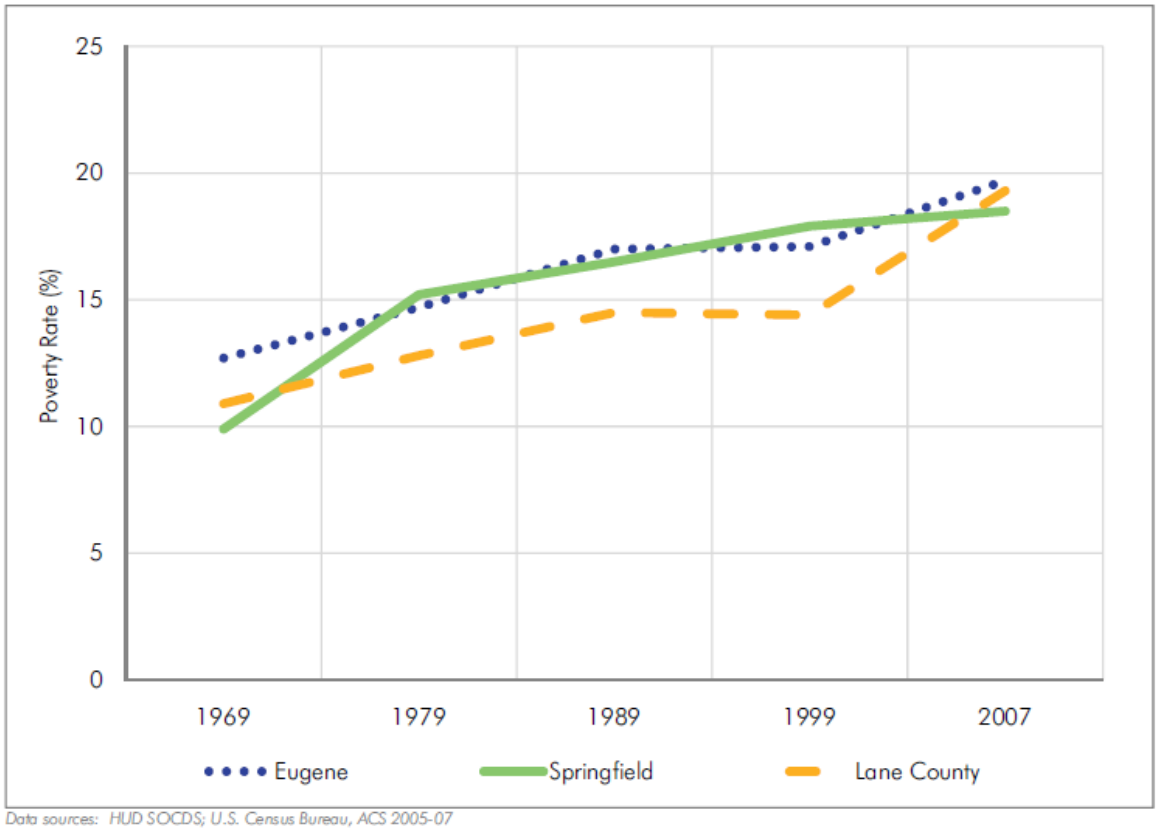
revenues do, and this is simply untrue. Finally, the Board questions how the Socioeconomic Analysis findings are tied to the Agency's preferred alternative. There appears to be little to justify the Agency's preference with respect to socioeconomic impacts that are "non-market".

The Board makes the following findings with respect to local socioeconomics and the DRMP:

- The Agency's analysis with regards to the volatility of the timber industry, and the statement that "increases in timber activity in the planning area could bring additional exposure to economic instability" is surprising. In the past month In Lane County, we have seen announcements for a combined $205M investment in three value added wood products industry facilities (one private and two publicly traded firms). To suggest the Agency's RMP-related actions could lead to greater volatility in our region leads one to wonder what conclusion or truth the Agency is attempting to conjure up. Moreover, the Agency is certainly aware of the "sold annually" provision of the O&C Act, which serves to create additional stability into the regional marketplace.
- The Agency's lack of analysis of unincorporated communities in favor of cities shows a callous and remarkable disregard for the cultural realities of western Oregon. Lane County has just twelve incorporated cities and fully half its population lives in the unincorporated area of the county. It is these residents that have been most impacted by the decline in federal land management. It is these residents who are now the rural poor. It is these residents who now bear the burden to pay for services through local taxes that were once paid for by federal revenue from a renewable resource that created jobs in our county. Cities in Oregon are far more resilient due to their higher tax bases and more diverse economies. That the Agency relied on an analysis that includes only city residents' ability to cope results in a questionable analysis.
- The Agency suggests that the Oregon Secretary of State Audits Division identified 8 "counties to monitor" in 2012.[2] The Board finds that in 2014, the Audits Division added two additional counties, Linn and Columbia, also within the planning area, to their list.
- The Agency's selection of two cities within Lane County for further interviewing to gain actual insight into forest related issues is appreciated, yet the decision to choose two cities within Lane County relatively un-impacted by management of the O&C lands puzzles the Board. Oakridge and Cottage Grove, for example, are cities that exist immediately adjacent to the checkerboard lands of the O&C, whereas Junction City and Florence do not. Moreover, among the cities identified for consideration for this reach out within Lane County, Florence is the only city not deemed to be in poverty[3]. Again, this appears to be a decision that was designed to ensure alternatives that minimize the outcome of maximizing volume from the timber resource. We provide the following historical trend for poverty[4] within Lane County and note the jump in poverty beginning in 1999, approximately the same time that management of federal lands, with respect to timber supply, reached a drastically new historic low in terms of volume harvested[5].

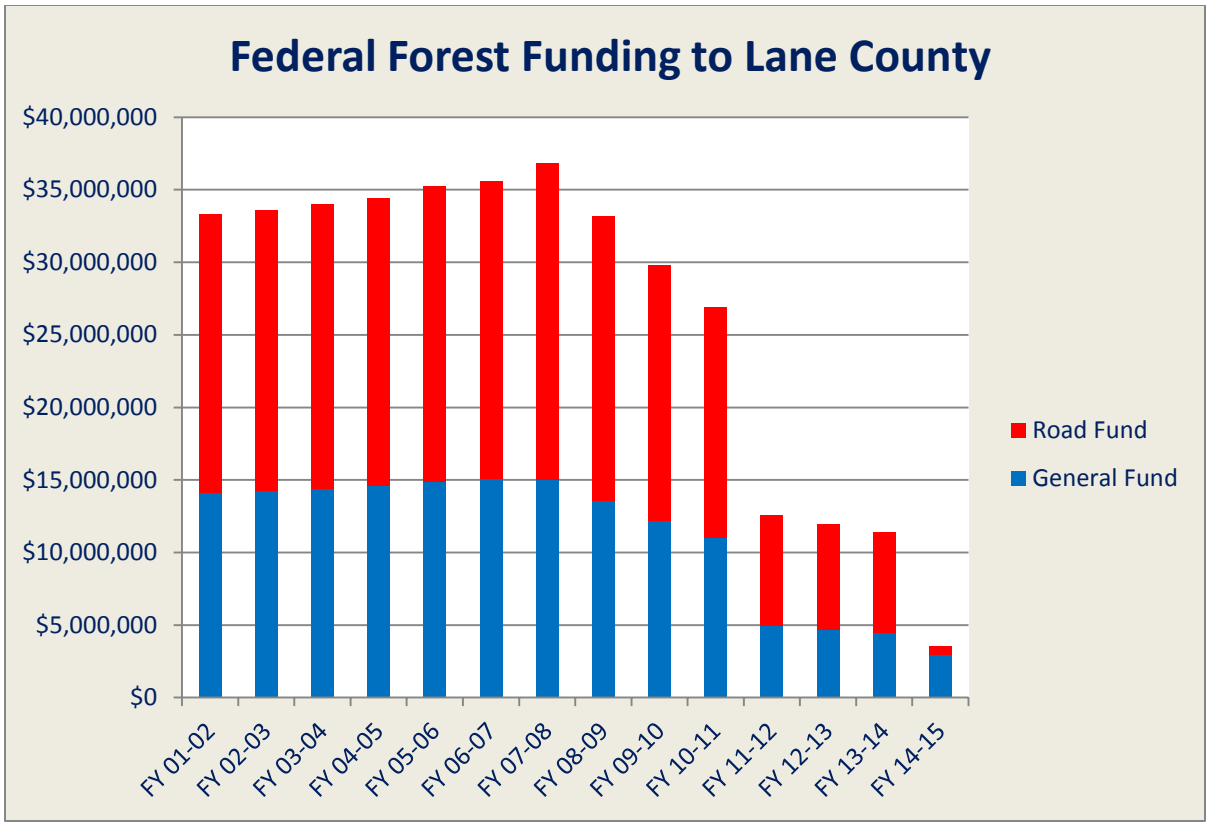
[2] DRAFT RMP, page 478
[3] DRAFT RMP, Appendix O, page 1371
[4] Eugene-Springfield 2010 Consolidated Plan, page 35, Figure 7, Poverty Rates, 1969-2007
[5] See, for example, figure 3-141, page 484, Draft RMP

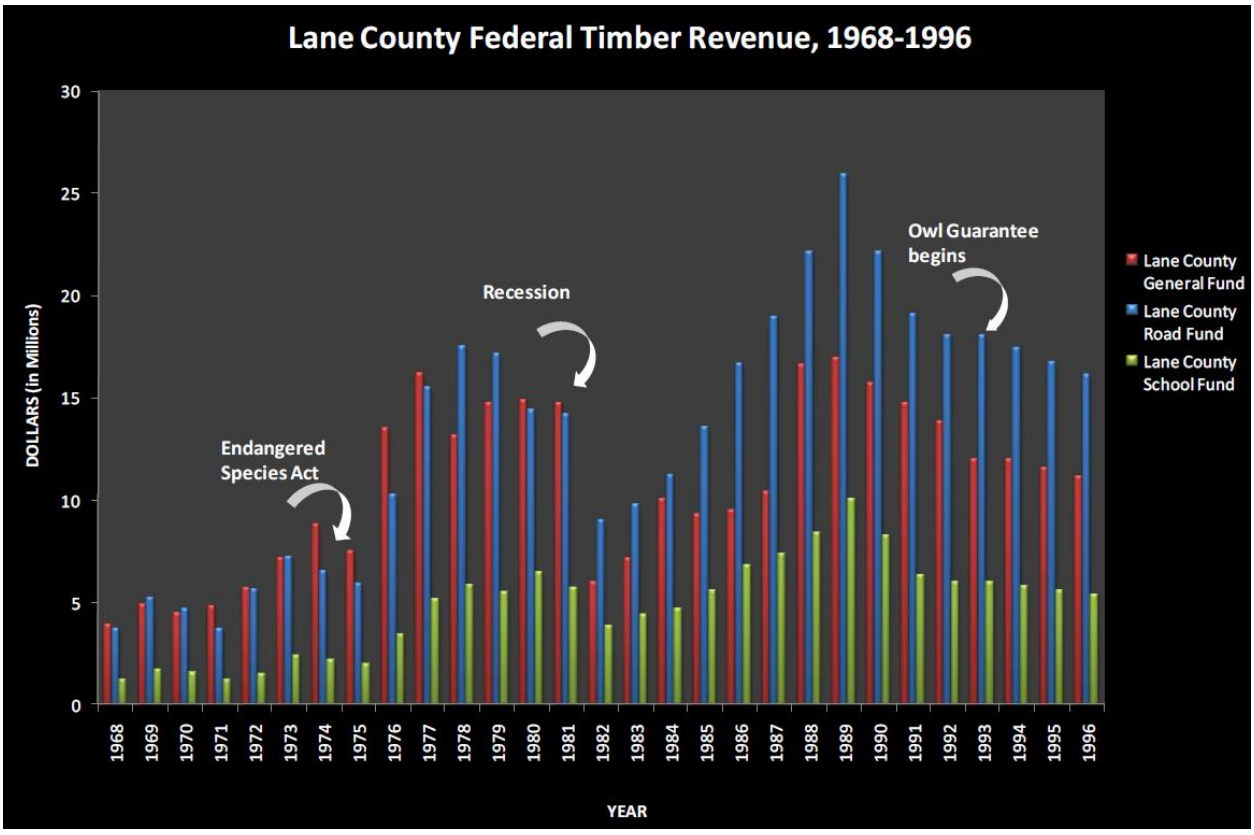
Figure 7 Poverty Rates, 1969 to 2007 - Cities of Eugene and Springfield and Lane County



Data sources: HUD SOCDS; U.S. Census Bureau, ACS 2005-07

- The Agency's treatment of fiscal resources received under the Secure Rural Schools and Community Self Determination Act of 2000 (SRS) and subsequent reauthorizations of the Act provide another example of leading the reader of the DRMP to conclusions that align with an acceptance of reduced timber harvest and value from O&C lands. The Board finds the discussion on pages 558-561 particularly troubling due to its focus on the FY 2012 SRS distribution. By 2012, SRS payments were significantly declined compared to the initial Act of 2000, and moreover Oregon counties (and indeed any of the 700 plus SRS affected counties nationally) had practically zero certainty that the Act would be reauthorized. Ultimately, it was reauthorized for one year, (and subsequently for two years) but the text of the draft leads the reader to assume that these payments are a regular occurrence. The Board finds that the DRMP as written, and particularly tables 3-189 and 3-190, leads readers to favor an SRS type mechanism rather than an actual harvest sharing methodology as established by the 1937 O&C Act. The Board provides the following graphic illustration of actual payments over the history of the Act and earlier actual timber receipts to showcase the historical importance of the revenue derived from the O&C lands (note O&C funding equals General Fund):


Federal Forest Funding to Lane County
$40,000,000
$35,000,000
$30,000,000
$25,000,000
$20,000,000
$15,000,000
$10,000,000
$5,000,000
$0
FY 01-02
FY 02-03
FY 03-04
FY 04-05
FY 05-06
FY 06-07
FY 07-08
FY 08-09
FY 09-10
FY 10-11
FY 11-12
FY 12-13
FY 13-14
FY 14-15
Road Fund
General Fund


Lane County Federal Timber Revenue, 1968-1996
DOLLARS (in Millions)
30
25
20
15
10
5
0
Endangered Species Act
Recession
Owl Guarantee begins
1968
1969
1970
1971
1972
1973
1974
1975
1976
1977
1978
1979
1980
1981
1982
1983
1984
1985
1986
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
YEAR
Lane County General Fund
Lane County Road Fund
Lane County School Fund

- The Board further highlights the importance of a historical examination of the O&C revenue rather than a single year (2012) examination. This dynamic may be illustrated through a comparison of the Draft RMP table 3-189, (2012 SRS revenue as a percent of county revenues for each of the 18 O&C counties) to a similar document from 1977-78[6]:

Table 5

RELATIONSHIP OF O&C RECEIPTS TO TOTAL COUNTY REVENUE
Eighteen O&C Counties
1977-78

County	Total County Revenue Per Capita	O&C Receipts Per Capita	O&C Receipts as a Percent of Total Revenue
Douglas	$563.07	$317.38	56.4%
Curry	718.20	266.94	37.2
Josephine	419.18	251.68	60.0
Jackson	237.67	140.23	59.0
Coos	217.38	102.40	47.1
Columbia	169.88	65.60	38.6
Lane	$276.66	$64.13	23.2%
Polk	158.94	54.54	34.3
Benton	159.61	44.21	27.7
Klamath	266.34	43.92	16.5
Linn	205.69	32.94	16.0
Tillamook	518.18	31.59	6.1
Clackamas	$151.27	$27.89	18.4%
Yamhill	142.00	16.18	11.4
Lincoln	307.02	13.30	4.3
Marion	116.74	8.71	7.5
Washington	98.94	3.33	3.4
Multnomah	176.09	2.08	1.2
TOTAL	$209.67	$50.35	24.0%

In Lane County's case, the DRMP suggests that the O&C revenue (via SRS) is a mere 2.2% of the total revenue of the County. Within the span of less than one harvest rotation, however, that same metric shows the O&C revenue to be 23.2% of the total.

[6] The O&C Lands, Bureau of Governmental Research and Service, University of Oregon, 1981, page 135

- The Board hereby reiterates the importance of the O&C revenues as a tool to provide public services to the residents of Lane County. While the document does acknowledge the use of these resources for mandated services[7], it is worthwhile to see a list of actual general fund supported services from the Lane County budget document for FY 16:

Pro ert ax ssessment, Collection istrib tion	iolent ex Crime n estigations
stice Co rt	iolent Offender ail Ca acit
oard of Pro ert ax eals	a nforcement, Res onse
lections oter Registration	arine Patrol, nforcement and ater Resc e
Recording, Research, arriage icenses	Offender Comm nit er ice
Prosec tion of efendants	dget Planning
amil a Child ort Prosec tion	nternal ditor
edical xaminer	o ernance
Commitment n estigation	ntergo ernmental Relations anager
Reso rce e elo ment	P blic nformation
Comm nicable isease Control	O erations dmin
ealth afet ort for nd	areho se
man er ices	ailroom
ealth er ices igh Ris Preg omen nfants	inance
eterans er ices	rchi es
omen, nfants Children trition	Ris anagement
o th er ices dmin	egal er ices
ood trition	man Reso rces dmin
er ision er ices	m lo ee enefits ellness
etention	m lo ee abor Relations
Phoenix Residential reatment Program	ebt er ice Pa ments
nimal er ices	ederal obb ing
Pro ert anagement	ntergo ernmental es greements
earch Resc e	P blic ccess ele ision
Resident e ties	isc. eneral x ense tems
Ci il Process, nmate rans ort and Co rt ec rit	eneral nd Reser e
at ral man Ca sed isaster anagement	acilities
andator and idence ased nmate er ices	

[7] DRAFT RMP, Page 558

The Board requests that the Agency amend the Socioeconomic Analysis to more accurately portray the situation of western Oregon counties under the duration of the 1995 RMP ("as written"). The Board suggests the Agency provide an examination of how timber revenue from the O&C resource is spent by the counties, and how the declines in these resources have impacted service delivery (for example the Community Capacity/Resiliency Baseline and the Selected Socioeconomic Characteristics provide no public safety data) under the duration of the current RMP. The BLM must ensure that the Socioeconomic Analysis better align with the 1937 O&C Act, which identifies that the timber supply shall contribute to the economic stability of local communities and industries.

Relying on 2012 data throughout its analysis allows the Agency to paint a relatively rosy future under all Alternatives. Had the Agency examined more fully the socioeconomic trend between 1995 and 2012, however, the Lane County Board of Commissioners believes that a different set of Alternatives, expressing a greater degree of distinctions between the Alternatives, would be the likely outcome as well as providing better accuracy of the No Action Alternative. The Board questions whether this DRAFT RMP can be considered to be aligned with the Council on Environmental Quality NEPA regulations at 40CFR 1502.14(d), as it pertains to establishing an accurate No Action Alternative, which serves as the benchmark for each of the other alternatives.

C. Protecting watersheds and regulating stream flow appears to be a success

Western Oregon's water resources are exceedingly valuable both from an environmental and economic perspective. The Board is particularly interested in ensuring that the management of federal lands protects this resource. Within the Eugene District, the watersheds of the McKenzie, Willamette (Middle Fork), and Siuslaw Rivers all flow through O&C Lands.

The Board especially noted the DRAFT RMP references the interagency Aquatic and Riparian Effectiveness Monitoring Program, which evaluated watershed conditions and trends for the fifteen year period between 1994 and 2008 within the Northwest Forest Plan area, and the conclusions of that study which indicated that riparian practices (reserves) are improving watershed conditions.[8]

The Board further noted the DRAFT RMP designed riparian actions to meet a narrower scope of objectives than the Northwest Forest Plan, and all Alternatives result in less Riparian Reserve than the No Action Alternative.

Finally, the Board paid close attention to the Agency's analysis of climate change considerations as they pertain to stream flow and water temperature within Chapter 3, Affected Environment and Environmental Consequences, and in particular the conclusion that the ability of active

[8] DRAFT RMP, page 80

management to mitigate projected changes in stream temperature appear to be limiting since changing air temperatures account for much of the expected changes in stream temperature.[9]

The Board finds:

- The Agency adequately examined the protection of watershed and the regulation of stream flows through the DRAFT RMP.
- The Agency's discussion of their preferred Alternative (B) suggests that it does not provide the "best possible response to the purpose and need for action" and that it is the intent of the Agency to develop a Proposed RMP that would, among other things, "reduce the risk of adverse effects to listed fish and water quality." It is not clear to the Board what the Agency intends to suggest with this statement. The Board will continue to monitor the RMP process with respect to Riparian Reserves, but finds the Agency's statement in this respect not congruous with the findings of the aforementioned interagency Aquatic and Riparian Monitoring Program (1994-2008).

D. Northern spotted owl Critical Habitat (USF&WS) implementation is not accounted for

The Board recognizes that within the O&C lands, there will by necessity be lands which are deemed to be reserved for critical wildlife habitat, for the preservation of exceptional cultural resources, and riparian protections and that as such these lands will not be managed for a sustained yield of timber. The Board is focused on the quantity of reserved lands under the DRAFT RMP alternatives due to the implications for the revenue available for county services.

The northern spotted owl was listed as a threatened species in 1990 and is under review to be considered endangered. The review will be finished by September, 2017. The US Fish and Wildlife Service (USF&WS) issued its Revised Recovery Plan in 2011 which included a designation within western Oregon of substantial critical habitat needs for the recovery of the northern spotted owl. The BLM must consult with USF&WS on proposed actions that could affect the owl on an estimated 53% of the O&C lands.

The Board noted the Agency's conclusions with respect to populations of the northern spotted owl, particularly the predominant impact of competitive interactions with the barred owl and the inability of the Agency's actions to reduce risks to the owls' habitat within the Coast Range especially.[10] The Board acknowledges that the USF&WS is experimenting with the lethal removal of barred owls in several study sites in the Northwest, but is uncertain what the policy outcomes for these studies will be should they prove successful. The Board further notes the focal point the spotted owl has provided to litigants interested in slowing logging within the Pacific Northwest generally.

[9] DRAFT RMP, page 159
[10] DRAFT RMP, page 746

The Board finds:

- The Agency appears to have concluded that timber production through sustained yield practices and the protection of threatened owl populations cannot occur on the same landscape. The Board questions this conclusion and seeks additional information regarding the designations of late-successional reserves as being separated from the harvest land base.
- Significant uncertainty regarding the Alternatives as they pertain to coordination with the designation of critical habitat. As an example, approximately 44% of the Harvest Land Base within Alternative C is spotted owl Critical Habitat. This overlay of a "plan on top of a plan" provides more questions than answers.

E. Concluding Remarks

The Lane County Board of Commissioners appreciates this opportunity to comment on the Bureau of Land Management's Draft Resource Management Plan for Western Oregon . The Board hopes it has conveyed to the Agency the importance of this plan to the residents of Lane County. The County's budget documents for the past half century are characterized by regular statements from the County Administrator as to the importance of the O&C lands, and the timber harvest resulting from those lands, to the services the County delivers.

Notably, Oregon voters passed property tax limiting Constitutional amendments at a time when timber revenues were at, or nearly at, all-time highs. Thus the fiscal policy of the state as a whole has long been influenced by the management of federal lands.

More recently, Lane County has turned to its own voters with taxation questions that have directly resulted from the decline in federal timber harvest from both O&C and Forest Service lands. In 2013, Lane County voters approved a five year levy adding $0.55 per $1,000 assessed value to the County's permanent tax rate of $1.28 per thousand valuation. This levy was limited to provide for the increased operation of Lane County's jail and juvenile detention system. The resultant $14M in annual local tax revenue was previously paid for through timber receipts from the O&C lands. In 2018, the County will ask voters to renew that levy.

In 2015, the voters were asked to adopt an Ordinance that would have created a new $35 per year per vehicle registration fee for the purpose of maintaining roads within the County. Voters soundly defeated that measure, leaving the County without a replacement for the revenue once produced and dedicated to roads by timber receipts from US Forest Service lands.

Lane County is absolutely dependent on these revenue sharing mechanisms established by the US Congress in the first half of the 20th century. We value our relationship with the federal land management agencies, and ask that they in turn remain committed to their responsibility to produce revenue from these lands within the constraints of subsequently passed laws. It is the role of the Agency to uphold the long-established promise that western Oregon's counties would remain economically stable even while acting as stewards of lands owned by all of the nation's residents.

Curry County
Board of Commissioners

David Brock Smith,
Commissioner

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Gold Beach, OR 97444
541-247-3296, 541-247-2718 Fax
800-243-1996 *www.co.curry.or.us*

August 20th, 2015

RMP's for Western Oregon
Bureau of Land Management
PO Box 2965
Portland, Oregon 97208

By Email and Regular Mail
(blm_or_rmpwo_comments@blm.gov)

Re: Western Oregon Draft Resource Management Plan/Environmental Impact Statement Comments

As a duly elected Commissioner for Curry County, and a Board Member of the Association of O&C Counties, I submit the following comments on behalf of the citizens of Curry County and its role as the local government responsible for land use planning and management within Curry County.

It must first be stated that no alternatives within the BLM Draft RMP/EIS are consistent with the O&C Act that states, "which have heretofore or may hereafter been classified as timberland, and power site lands valuable for timber, **shall** be managed … for permanent forest production, and the timber thereon **shall** be sold, cut and removed in conformity with the principal of sustained yield …". The two mandatory actions within the act that the BLM has not discretion are: if it is timberland, it must be included in the timber productions base; and if it is in the timber production base, it must be managed for sustained yield timber production. Any BLM discretion only applies to the latter, although the timing and intensity of sustained yield practices must conform to the aforementioned principles of the O&C Act. Furthermore, the 9th Circuit Court of Appeals decision in Headwaters v. BLM, 914 F.2d 1174, is the controlling interpretation of the O&C Act and the BLM must follow it. The cases opinion identifies the purposes, goals and objectives of the O&C Act as well as the BLM's management discretion, and pages 1183-1184 outline:

> The term "forest production" in the O&C Act means "timber production". Timber production is the "dominant use" for O&C lands.
> "Exempting certain timber resources from harvesting to serve as wildlife habitat is inconsistent with the principle of sustained yield".
> "The purposes of the O&C Act were two-fold. First, the O&C Act was intended to provide the counties with the stream of revenue which had been promised but not delivered . . . Second, the O&C Act intended to halt previous practices of clear-cutting without reforestation, which was leading to a depletion of forest resources." "Nowhere does the legislative history suggest that wildlife habitat conservation or conservation of old growth forest is a goal on a par with timber production, or indeed that it is a goal of the O&C Act at all."

The ruling clearly defines the goals and objectives for the management of the O&C lands as Congress intended, to produce revenue for the 18 Counties in which the lands are located through a prescription of sustained yield timber production, declaring, "that these lands were to be managed as part of a 'sustained yield timber program' for the benefit of dependent communities", and "In order to protect watersheds and maintain economic stability in the area, long-term federal timber yields were guaranteed by limiting the maximum harvest to the volume of new timber growth." Stating further, "for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities".

The Headwaters decision is clear, through reference to the legislative history, that protecting watersheds, regulating stream flows, and providing recreation facilities are the intended outcomes from sustained yield timber management rather than separate goals that can compete with sustained yield timber management. Furthermore, recreation identified in the Act is an expected outcome of sustained yield timber management and **not** a goal independent or in competition with timber production, nor can it be achieved at the expense of timber production. This was clearly identified in the 9th Circuit Court of appeals case, O'Neal v. U.S. (1987) and stated:

> "The provisions of 43 U.S.C. §1181a make it clear that the primary use of the revested lands is for timber production to be managed in conformity with the provision of sustained yield, and the provision of recreational facilities as a secondary use. No duty is thereby established to provide for recreational use."

It must also be stated that although in 1976 Congress passed the Federal Land Policy and Management Act ("FLPMA"), which redefined the management direction for nearly all lands in the United States under the jurisdiction of the BLM, there was one exception, the lands managed under the O&C Act. Congress specifically preserved the dominance of timber production on the O&C lands by adopting section 701(b) of FLPMA, which says that "[n]notwithstanding any provision of this Act [FLPMA], in the event of conflict with or inconsistency between this Act and the . . . [O&C Act and Coos Bay Wagon Road Acts], insofar as they relate to management of timber resources, and the disposition of revenues from lands and resources, the latter Acts shall prevail." This provision was later reinforced by the Interior Solicitor in 1986 when asked if the BLM had the authority to implement a plan for the protection of spotted owls. The legal opinion differentiated between lands managed by the BLM pursuant to FLPMA, and lands managed pursuant to the O&C Act. The Solicitor's opinion describes the difference as follows:

> "The freedom conferred on the Secretary under FLPMA is limited in one important way on certain federally-owned timberlands in western Oregon. There, any decision about managing northern spotted owls must be measured against the dominant use of timber production. In deciding whether to establish a program for managing northern spotted owls on O&C timberlands, the Secretary, then, must decide if it is possible to do so without creating a conflict with the dominant use there—timber production. If the Secretary can manage northern spotted owls and still produce timber on a sustained yield basis in the O&C timberlands, the O&C Act in no way will preclude him from making that choice. The converse, of course, also obtains. If a program for managing northern

spotted owl's conflicts with producing timber on a sustained yield basis in O&C timberlands, the O&C Act will preclude the program's application to that realty."

Gale Norton and Constance Harriman, Associate Solicitors, Memorandum to James Cason, Deputy Assistant Secretary for Land and Minerals Management (October 28, 1986).

Furthermore, the BLM's own scientific analysis as defined within the draft RMP/EIS clearly states, ""The northern spotted owl population is under severe biological stress in much of western Oregon and has an even chance of being extirpated from the Coast Range within 35 years. This population risk is predominately due to competitive interactions between northern spotted owls and barred owls", and "the BLM has no opportunity, through habitat management, to reduce risks to the northern spotted owl during the next 50 years, and there are no substantive differences among the alternatives in their potential effects on those risks."

Any draft RMP/EIS must adhere to the fact that the O&C Lands are not traditional multiple use lands. Instead, the O&C Act makes timber production to produce revenue for Counties the overriding management objective for the lands. Secondary uses, such as recreation and the protection of watersheds and wildlife habitat, are permitted, but they must be accomplished simultaneously, in coordination with and not at the expense of, timber production to benefit local communities. The limits of BLM's discretion and any draft RMP's are ascertained by reference to the terms of the O&C Act, on its face and as interpreted in the Headwaters decision, as well as by historic interpretations given the O&C Act by the BLM itself.

That being said, if the BLM were to move forward with the current RMP/EIS process, my opinion for the best adherence to the Act and its subsequent interpretations that both state, "these lands were to be managed as part of a 'sustained yield timber program' for the benefit of dependent communities", and "in order to protect watersheds and maintain economic stability in the area, long-term federal timber yields were guaranteed by limiting the maximum harvest to the volume of new timber growth." Stating further, "for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities", adding the scope of today's environment surrounding timber management, I would recommend the following:

Alternative C as the base alternative with modifications, understanding the use of the various sections of the other alternatives as "Lego blocks".

Replace Alternative C riparian reserve with Alternative B riparian reserve. This would allow for better riparian management as well as better adherence to Act. Reduce eastside management to 5%, reduce other reserves to 10%, reduce late-successional reserve to 30% and increase the harvest land base by 10%, to 40%. This would equal the reserves to the harvest land base, and also increase the potential harvest to better adhere to the Act, specifically in the area of, "that these lands were to be managed as part of a 'sustained yield timber program' for the benefit of dependent communities", and "for the purpose of providing a permanent source of timber supply, protecting

watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities".

It is my opinion, that if the BLM RMP/EIS is to go forward under the current process, that the suggested changes mentioned above, would be the best management strategy within the current confines of the alternatives. I could not and will not support anything less than what I have proposed within the modifications of Alternative C above. I will, as a duly elected Commissioner of and O&C County and on behalf of my residents and their businesses, actively oppose anything less than what I have outlined in my comments and suggestion, to the fullest extent available to me. Thank you in advance for your consideration and I appreciate the opportunity to comment on this critical document.

Sincerely,

David Brock Smith, Commissioner
Curry County Board of Commissioners
District 4 Chair,
Association of Oregon Counties
Association of O&C Counties Board Member

Jasmine Benjamin

From: fpaulete@blm.gov on behalf of RMPWO_Comments, BLM_OR <blm_or_rmpwo_comments@blm.gov>
Sent: Saturday, August 22, 2015 11:32 AM
To: RMP-Comments@heg-inc.com
Subject: Fwd: FWS comments on the DEIS
Attachments: FWSCommentsDEIS.PDF

---------- Forwarded message ----------
From: **Hardt, Richard** <rhardt@blm.gov>
Date: Fri, Aug 21, 2015 at 9:45 AM
Subject: Fwd: FWS comments on the DEIS
To: BLM_OR RMPWO_Comments <blm_or_rmpwo_comments@blm.gov>

---------- Forwarded message ----------
From: **Brendan White** <Brendan_white@fws.gov>
Date: Thu, Aug 20, 2015 at 5:10 PM
Subject: FWS comments on the DEIS
To: Richard Hardt <rhardt@blm.gov>, Mark Brown <m4brown@blm.gov>, Eric Greenquist <egreenqu@blm.gov>
Cc: Betsy Glenn <betsy_glenn@fws.gov>

Richard, Eric and Mark –

Please find attached the Service's comments on the BLM's DEIS. We look forward to continuing to work with you on this effort. Please let Betsy or I know if you have any questions.

Have a good weekend (I know it's only Thursday but I'm off tomorrow….).

Brendan White

Forest Resources Division

Consultation Branch Manager

U.S. Fish and Wildlife Service

Oregon State Office

(503)231-6179

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Richard Hardt
Interdisciplinary Team Leader
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United States Department of the Interior

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Reply To: 01EOFW00-2015-F-0279
File Name: FinalDEISComments
TS Number: 15-764
TAILS: 01EOFW00-2015-F-0279
Doc Type: Final Letter

AUG 20 2015

Memorandum

To: Jerry Perez, State Supervisor, Oregon and Washington Bureau of Land Management

From: Acting for State Supervisor, Oregon Fish and Wildlife Office
Portland, Oregon

Subject: USFWS Comments on the Draft Resource Management Plan/Environmental Impact Statement for Western Oregon [OFWO Ref. # 15-764]

Dear Mr. Perez,

The U.S. Fish and Wildlife Service (Service) appreciates the opportunity to comment on the Draft Resource Management Plan/Environmental Impact Statement for western Oregon (DEIS). Our comments are provided pursuant to the National Environmental Policy Act (NEPA) 40 Code of Federal Regulations Part 1500-1508 and 43 C.F.R. 46.230. Our comments are also pursuant to the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 et seq.).

The Service would like to acknowledge the efforts of the Bureau of Land Management (BLM) to coordinate with the Service, among other Federal agencies and stakeholders, very early in the planning process to best provide an opportunity for our input and expertise to be considered during the planning process. This planning process has been collaborative and inclusive, and we believe that has and will produce a product that most effectively meets your purpose and need statement and will contribute significantly to the longevity of these revised plans.

Service employees have served on numerous teams and working groups, including the Cooperating Agencies Advisory Group, the terrestrial working group, the riparian technical working group and the manager's group. In addition to our comments on the DEIS we are also working with your staff on a Conservation Assessment and Conservation Review as part of the Section 7 consultation process. The Conservation Assessment is particularly valuable for addressing the conservation needs of those species whose ranges are small compared to the scale of the DEIS analyses. Many of those species are not addressed in the DEIS at a level of detail

that provides for an assessment of the impacts of the Resource Management Plan (RMP), which adds to the value of the Conservation Assessment/Review process.

Comments

The BLM's purpose and need statement set the stage for an effective and defensible revision process. Although every agency's responsibility to contribute to the recovery of listed species is implicit in Section 7(a)(1) of the Endangered Species Act, BLM explicitly included as one of the purpose and needs, the "Conservation and Recovery of Threatened and Endangered Species." Using this as a foundation from which to work has provided the cooperating agencies a sturdy platform from which to participate in the process that allows us to meet our statutory goals.

The purpose and need statements have been interpreted by BLM to manage riparian areas exclusively for the benefit of listed fish and water quality. However, forested ecosystems provide substantial benefits for listed and non-listed terrestrial and semi-aquatic species, as well. While the Service has been an active member of the Riparian Technical Team, we believe this focus on aquatics has precluded opportunities for forest restoration projects in appropriate stands that would have otherwise been viable in a manner that would protect listed fish and water quality. To the extent BLM can manage riparian forests to restore homogenous stands and introduce heterogeneity, we believe this will improve stand conditions for many species, including the northern spotted owl (*Strix occidentalis caurina*)(spotted owl) and marbled murrelet (*Brachyramphous marmoratus*) (murrelet). We also believe this heterogeneity would improve the capacity for the riparian reserve to contribute large wood to the streams within the project area.

For comments specific to individual species, the Service contacted its species experts within Oregon and asked them to review the DEIS to see if there was enough information for us to proceed with section 7 consultation. If there was not enough information to comment on how the DEIS would affect their respective species, they were asked to note specifics about what should be added. Much of that specificity was developed during the more detailed Conservation Assessment/Review process; to the extent that the comments and recommendations we have made on the Conservation Assessment may inform the development of the FEIS, we will include those in this letter, as well. While the Conservation Assessment process addresses terrestrial species, the BLM, National Marine Fisheries Service and the Service are in the early stages of a similar process for aquatic species, termed the Early Review Process.

<u>Riparian Management and riparian-dependent species</u> –

The Service does not support adoption of the Riparian Reserve strategy embodied in the Preferred Alternative, Alternative B.

The Service supports the riparian reserve approach embodied in Alternative A because it provides significant protection for stream shading, sediment delivery and aquatic species, while providing more opportunities for restoration forestry projects than the design in the other alternatives, including Alternative D. Specifically, allowing forestry activities outside of 50 feet from the stream on the intermittent, non-fish bearing streams for the benefit of large-wood production is an activity that the Service advocates as it is consistent with the restoration forestry recommendations in our Recovery Plan and Critical Habitat rule for the spotted owl, while also

providing benefits to listed fish and cold, clean water. Because we believe conducting these restoration forestry activities is important for riparian dependent species as well as older forest species such as the spotted owl and murrelet, we recommend the BLM structure the implementation of these activities in a manner that provides the best opportunity for them to be implemented. If using commercial timber contracts increases the likelihood of their implementation in a manner that increases the complexity of the stands while providing for large wood delivery to streams, we support that approach. If the BLM can set specific goals or targets for density management projects in appropriate stands outside the no-thin inner zones of the Alternative A riparian reserves, the Service supports that approach if it helps to ensure those projects will be paid for and conducted. If the BLM can bundle these projects in appropriate stands with nearby timber harvests, the Service supports that approach if it helps to ensure those projects will be paid for and conducted and as long as the association with the adjacent harvests does not change the design of the riparian reserve projects.

Natural Regeneration –

On pages 950 and 952 natural regeneration techniques are identified as an optional method for regenerating harvested stands. The Service applauds the incorporation of this practice as we believe it will lead to increasingly diverse and more natural stands in the long term. We realize this practice may increase the time necessary for a previously harvested stand to meet the dispersal and foraging needs of spotted owls. However, the structure of the resulting stands should provide a habitat benefit that outweighs that extended timeframe.

Page 952 states that up to 10 percent of the stockable stand may be left un-stocked. The Service encourages the BLM to consider a higher percentage available for natural regeneration for rare situations where up to 25 percent of the stockable stand may be desired to be left un-stocked.

Spotted owl –

We realize the pattern of BLM-managed lands make providing blanket connectivity across the landscape a challenge. However, the BLM has demonstrated in the DEIS the ability to facilitate this movement under two of the action alternatives and under the no action alternative scenario maps (pages 770-773). The Service recommends the BLM maximize the capability of the landscape to provide for spotted owl dispersal between the Cascades and the coast range, and between blocks of habitat within the coast range. The northern Coast Range is currently lacking in spotted owl habitat, and development of habitat for both resident and dispersing owls will help facilitate recovery.

Inclusion of structurally complex forest in the Late-successional Reserve (LSR) – The Service supports the definition of "Structurally-Complex Forest" included in the preferred alternative: "all stands identified by existing, district-specific information on structurally-complex stands." In most or all cases the Service has been involved in the development of these district-specific plans and they are specific to the spatial changes in stand-type throughout the BLM's ownership. We believe the inclusion of structurally complex forest in the LSR as defined by these district-specific processes and documents is consistent with the recovery of spotted owls and murrelets and we recommend the BLM adopt this definition.

Effects to the spotted owl –

Our review of the potential impacts from each alternative, starting with the preferred alternative (Alternative B) follows. We also provide some line-specific comments following the discussion of each alternative.

Alternative B/Preferred Alternative Background –

This alternative includes 556,335 acres in the harvest land base and 1,922,521 acres outside the harvest land base. An estimated 332 million board feet is estimated to be harvested in the first decade under Alternative B. Within the harvest land base 209,743 acres are also spotted owl critical habitat (38 percent of harvest land base is critical habitat). These critical habitat acres are distributed into the following timber harvest categories: Low intensity: 76,185 acres, Moderate intensity: 964 acres, and Uneven-aged: 132,594 acres. As of 2013, there were 283,635 acres of nesting/roosting habitat in the harvest land base (there is a high degree of overlap between the nesting/roosting acres and critical habitat). BLM's decadal predictions of amounts of nesting/roosting habitat in the harvest land base show a net decrease of 9,300 acres of nesting/roosting habitat during the first decade, but increases in each subsequent decade (ranges from 273,945 acres in 2023 to 339,214 acres in 2063, currently at 283,635 acres).

Table 1. Spotted owl critical habitat within the harvest land base under Alternative B.

	Total Acres	Critical habitat (acres)	Percent critical habitat
Planning area	2,478,856	1,207,676	48
Harvest Land Base	556,335	209,743	38%
Moderate Intensity	210,087	964	<1%
Low Intensity	72,358	72,358	~100%
Uneven-aged	273,890	132,743	49%

Approximately 997,933 acres of spotted owl critical habitat are on BLM lands and not in the harvest land base (83 percent of critical habitat on BLM lands in the planning area is not in harvest land base, 17 percent is in harvest land base).

Under Alternative B, there are 175 known/historic spotted owl activity centers in the harvest land base. Of these sites, 48 (28%) have been documented as occupied in the most recent surveys (2013). Of the 175 known owl sites, 48 (28%) are at or above Recovery Action (RA)10 thresholds. Of the 48 occupied sites, 18 (38%) are at or above RA10 thresholds. These numbers indicate that many of the spotted owl sites in the harvest land base are currently deficient in habitat for spotted owls and less than 1/3 of the known sites in this region are currently occupied. Decadal projections of habitat change in the harvest land base indicate that the number of sites meeting RA10 thresholds increases for both occupied and total sites at each decadal increment. Under Alt B, the percent of the harvest land base that is comprised of nesting/roosting habitat decreases from 51 percent (283,635 acres) to 49 percent (273,945 acres) during the first decade,

but increases in subsequent 5 decades (57%-61%). These increases are the results of modeled ingrowth outpacing the effects of habitat loss to timber harvest and fire in the harvest land base.

In addition to the 175 known spotted owl territories on the harvest land base, there are an additional 663 spotted owl territories with activity centers outside the harvest land base but with 500 acre cores that overlap the harvest land base (a total of 838 spotted owl sites with core areas potentially impacted by harvest land base). There are 912 additional spotted owl territories with activity centers outside the harvest land base that have home ranges that overlap the harvest land base (a total of 1,087 spotted owl home ranges that overlap the harvest land base).

Within critical habitat, there are approximately 1,165 spotted owl sites (current and historic) that are at or above RA10 standards on BLM lands in the planning area (p. 822). The majority of these sites (1,027) are outside the harvest land base. Under Alternative B, this number increases to 1,200 in 2023, 1,270 in 2033, 1,290 in 2043, and levels off at 1,325 in 2053 under modeled projections.

On all BLM lands in the planning area, there are currently 1,450 spotted owl sites at or above RA10 thresholds. Under alternative B, this number increases steadily over time to 1,715 by 2063; however, this increase is less than the increases shown under Sub-alternative B, Sub-alternative C, and Alternative D.

In Alternative B, the harvest land base is located primarily in the southern Willamette Valley and Klamath Region. The Klamath Region is particularly important as a production area for spotted owls and with the Eastern Cascades-South, is one of the few areas showing relatively stable spotted owl populations over time.

Impacts to known spotted owl territories from timber harvest in the harvest land base are summarized in the following tables (data on harvest impacts provided by Eric Greenquist/Craig Ducey):

Table 2. Number and percentage of spotted owl sites in the Alt B harvest land base experiencing a modeled harvest within their cores or home ranges by decade.

175 spotted owl sites occur in the Alternative B Harvest Land Base – these are the sites that are addressed in the summary tables below

138 (79%) of the 175 sites are in Critical Habitat

48 spotted owl sites had documented occupancy in most recent surveys (2013)

Within western Oregon, there are 838 spotted owl core areas (500 acres) that overlap the harvest land base for Alt B (this is 55 percent of the 1,505 owl territories on BLM lands). There are 1087 spotted owl home ranges that overlap the harvest land base for Alt B.

87,500 **acres of core area in total**

Decade	Cores (N=175 total activity centers in HLB)	Percent of cores affected by harvest (N=175)	Home Ranges (N=175)	Percent of Home Ranges affected by harvest (N=175)
2013	0	0%	0	0%
2023	145	83%	171	98%
2033	140	80%	169	97%
2043	142	81%	167	95%
2053	132	75%	165	94%
2063	138	79%	164	94%

Table 3. Acres of modeled harvest within spotted owl *cores* in the harvest land base by harvest type and decade for Alternative B.

Decade	Thinning	Selection (uneven-aged)	Salvage	Regeneration with Leave Trees (Two Age)	Total Acres (Nesting Roosting acres)	average acres impacted per core	average Percent of core affected
2013	0	0	0	0	0		
2023	848	7,917	263	2,345	11,372 (3,963)	78	15.7%
2033	1,785	7,273	300	1,139	10,497 (4,453)	75	15.0%
2043	927	8,576	369	1,367	11,239 (5,218)	79	15.8%
2053	846	6,015	46	480	7,387 (3,847)	56	11.2%
2063	635	7,681	937	964	10,218 (4,944)	74	14.8%
Total Acres	5,040	37,461	1,915	6,295	50,712 (22,427)		

Table 4. Acres of modeled harvest within spotted owl *home ranges* in the harvest land base by harvest type and decade for Alternative B.

Decade	Thinning	Selection	Salvage	Regenation with Leave Trees (Two Age)	total acres (Nesting Roosting acres)	average acres impacted per home range	Percent of HR (ave hr size of 4000 acres)
2013	0	0	0	0	0		
2023	2,473	19,971	1,199	5,438	29,081 (12,926)	170	4.3%
2033	5,013	18,282	827	3,042	27,164 (13,526)	161	4.0%
2043	3,923	20,500	1,546	2,841	28,809 (17,075)	173	4.3%
2053	2,881	18,494	410	2,240	24,025 (15,263)	146	3.6%
2063	2,697	19,871	2,979	2,170	27,717 (16,302)	169	4.2%
Total Acres	16,986	97,118	6,961	15,731	136,796 (75,091)		

NOTE: Acres in the cores are double counted in the home ranges.

Within the harvest land base, there are approximately 30,000 acres within spotted owl core areas and 126,000 acres within spotted owl home ranges. For these lands, 17,834 acres (58%) of the cores is currently (2013) nesting/roosting habitat and 56,705 acres (45%) of home ranges is currently nesting/roosting habitat. Decadal projections of habitat indicate that the net amount of nesting/roosting habitat in cores in the harvest land base will decrease by 579 acres during the first decade, but will increase each consecutive decade to a max of 23,099 in 2063. In home ranges, the net amount of nesting/roosting habitat decreases by approximately 500 acres during the first decade, but increases to a max of 74,125 in subsequent decades. Habitat increases are the result of BLM's modeled ingrowth exceeding habitat loss from timber harvest, fire, or disease.

Hexsim Predictions for Alt B.

The Hexsim results clearly indicate that barred owl (*Strix varia*) presence is currently the driving force behind the observed declines in spotted owl populations over time. With the exception of the Klamath and East Cascades South areas, population declines are substantial under all scenarios (Alt A-D, no action, and no timber harvest). The Service has identified that both habitat conservation and some manner of mitigating barred owl impacts on spotted owls are necessary if spotted owl recovery is to be achieved.

Population Sources (analysis conducted on no harvest alternative) - This analysis indicates that the Klamath region and portions of the Coast Ranges are important sources for spotted owl production on BLM lands.

Population models/trends

For most modeling regions, barred owl effects are swamping the effects of habitat changes, resulting in spotted owl populations showing steep population declines under all alternatives, the no action alternative, and the no timber harvest scenario. It is important to note that population projections for modeling regions are influenced by all lands containing spotted owl habitat within that region, not just BLM lands. When barred owl encounter rates are reduced (under the assumption of some type of management), populations show more stable trend in the north coast-Olympic (NCO), Oregon coast range (OCR), Klamath-Siskiyou west (KLW). For the other regions, the modified barred owl rate is either no change or an increase from the current rate, so population performance is not improved; however, for the more southern areas, spotted owl populations are not showing the level of decline that they are in northern areas.

East Cascades South (ECS), Klamath-Siskiyou West, and Klamath-Siskiyou East (KLE) modeling regions are the only regions that show substantial differences in spotted owl population performance among the alternatives (all alternatives plus no action and the no harvest scenario). It is worth noting that both BLM lands and the harvest land base make up a greater proportion of spotted owl habitat in the southern modeling regions (KLW, KLE, ECS) than the northern regions, where Forest Service and private ownership comprise more of the land base. These areas are also the areas with the smallest spotted owl population declines over time, with some areas actually showing increases.

In East Cascades South, Alt B performs less well than Alternative A, Sub Alternative B, Alternative C, Sub Alternative C., and Alternative D. In this region, Sub Alternative B had the best population performance.

In Klamath West, Alternative B, Sub Alternative B, Alternative C, Sub Alternative C, and Alternative D all performed similarly. Alternative A performed less well.

In Klamath East, Alternative B performed less well than Alternative A, Sub Alternative B, and Alternative D. Alterative C performed less well.

The HexSim results suggest that these modeling regions (ECS, KLW, KLE) currently have the most robust spotted owl populations and are thus very important for spotted owl recovery.

FWS analysis of Alternative B –

There is a large amount (209,743 acres) of spotted owl critical habitat that may be impacted by low intensity or uneven-aged timber management under Alternative B. Total amounts of nesting/roosting habitat within the harvest land base show a decrease of 9,300 acres in the first decade (2023), but increase in each successive decade (2033-2063). Impacts during the first decade are concerning because spotted owl populations are currently declining at a high rate across the range of the species. Actions that threaten the continued occupancy and demographic performance of existing owls will have negative effects on recovery.

In the planning area and in harvest land base, the modeled predictions of spotted owl habitat show an increase in spotted owl habitat over time, and habitat increases are greater than the no action alternative. In addition, large blocks of suitable habitat are developed and maintained on the landscape under Alternative B. Decadal changes in habitat in known sites and across the planning area show overall increases in habitat over time, following a decrease of approximately 9,300 acres in habitat during the first decade.

The spotted owl sites within the harvest land base are important to spotted owl recovery. Most of these sites are in the Klamath region, which is one of the few source populations for spotted owls. A number of the areas of high spotted owl production are designated as LSR (Chapter 3, p. 801) which will aid in spotted owl recovery; however, many acres within the harvest land base are also high production areas for spotted owls. Additionally, many of these sites are currently deficient in habitat (less than 50 percent suitable habitat in core, 40 percent in home range). Of the 175 owl sites in the harvest land base, only 48 (28%) currently meet RA 10 thresholds. While there are 175 spotted owl territories with site centers located on the harvest land base, there are total of 838 spotted owl territories with core areas that overlap the harvest land base. Actions that decrease spotted owl occupancy/ demographic performance on these sites will have negative consequences for spotted owl recovery and timber harvest within spotted owl core areas and territories is expected to negatively impact population performance. Overall, habitat projections indicate that suitable spotted owl habitat should increase across most of the harvest land base over the next 5 decades. If timber management actions do not substantially decrease site occupancy or demographic performance (recognizing that potential barred owl management is expected to have a strong influence on outcomes), overall effects of timber management on spotted owls may not be great. However, the modeled impacts on spotted owl territories indicate that there will be significant impacts to a large number of spotted owl core areas and territories each decade in the harvest land base.

Of the 175 site centers in the harvest land base, 98 percent will be impacted by timber harvest and 83 percent of the core areas of these territories will also be impacted. It also appears that impacts will be disproportionally heavy on core areas relative to home ranges. While selection harvest (uneven-aged) and thinning are likely to promote development of future habitat, the short-term effects will be a reduction in suitable habitat within the affected owl territories and many of these home ranges are already deficient in suitable habitat (see above). The most recent surveys (2013) indicated that 48 of the 175 known territories were currently occupied. During the first decade (2013-2023), 83 percent of the total owl core areas were predicted to be affected by timber harvest. If this percentage is applied to known occupied territories, 40 of the 48 occupied territories would be affected by timber harvest. These actions have high potential to result in site abandonment or to prevent re-occupancy at these sites if they are not currently

occupied. Of the 175 sites within the harvest land base, 138 (79%) are also within spotted owl critical habitat.

There are a large number of spotted owl sites (N=663) with activity centers outside the Harvest land base (HLB) but with core areas overlapping the HLB that may be impacted by timber harvest. Additionally, there are 912 spotted owl home ranges with activities centers outside the harvest land base with home ranges that overlap the harvest land base.

This assessment identifies impacts to nesting/roosting habitat within the activity centers in the harvest land base. Effects to foraging habitat, however, have not been specifically addressed.

Modeled changes in amount of habitat within core areas and home ranges suggests that the cumulative impact on habitat within existing spotted owl sites in the harvest land base will be minimal over time. However, these numbers represent net change (harvest, fire, ingrowth) in habitat acres across the harvest land base, not how much may be harvested within individual owl sites. Harvest predictions within known owl territories indicate approximately 136,796 acres (29,081 in first decade) of harvest will occur in known owl territories over the next 5 decades. The reported net loss of 500 acres of nesting-roosting habitat during the first decade seems at odds with the amount of harvest that will occur within nesting-roosting habitat.

A key question is whether barred owl management can be used to recover spotted owl populations and to potentially offset the effects of habitat loss. We do not yet have the answer to this question. If barred owl management can be successfully implemented, overall population performance of spotted owls in the planning area could be enhanced under Alternative B if more sites become successfully re-occupied than are lost as a result of timber harvest. Population models show that without a reduction in barred owl effects, spotted owl population will continue to decline under all scenarios, including no timber harvest. In areas where barred owls are present, spotted owls have been shown to have stronger demographic performance in areas with greater amounts of suitable habitat (Wiens et al. 2014). We encourage maintaining and developing suitable spotted owl habitat across the range of the species to the maximum extent possible. Of particular importance are currently occupied sites and sites that have a high probability of reoccupancy with barred owl management. Maintaining sufficient suitable habitat across the landscape is essential for barred owl management to be a successful recovery strategy.

The other Alternatives –

Alternative A

This alternative has 343,900 acres in the harvest land base and 2,134,856 acres not in the harvest land base. Within the harvest land base 1,982 acres are also spotted owl critical habitat (<1 percent of harvest land base is critical habitat). These critical habitat acres are distributed as follows: High intensity: 1,492 acres, Uneven-aged: 561 acres. There are fewer owl sites in the harvest land base (59) and fewer acres of nesting/roosting habitat (155,154 acres) than for Alternative B. Population performance is similar to or better than Alternative B in modeling regions where there is a detectable difference between alternatives. While fewer sites are impacted, less habitat develops over time under Alternative A relative to Alternative B.

Sub Alternative B

Sub alternative B is identical to Alternative B except that it includes protection of habitat within the home ranges of known and historic spotted owl territories. For spotted owl conservation, this

alternative is the most effective choice. Maintaining existing spotted owl territories and habitat provides the best opportunity for recovery if barred owl effects on spotted owls can be reduced. In additional, sub-alternative B also provides the best east-west owl dispersal between the Coast Range and Cascades. While we realize that this is not the preferred alternative, we recommend adoption of these conservation measures wherever possible, particularly in currently occupied spotted owl sites. We also recommend prioritizing the retention of sites occupied by reproducing pairs while focusing timber harvest in unoccupied sites.

Alternative C

Alternative C has the largest harvest land base of the alternatives (30%) with 553,857 acres of high intensity timber area and 184,715 acres of uneven aged management. There are 273 known and historic spotted owl territories in the harvest land base. Amount of nesting-roosting habitat within the harvest land base would decrease from 410,225 acres in 2013 to 330,306 acres in 2063. High intensity timber harvest is not consistent with maintaining spotted owl habitat or site occupancy. This is the least desirable alternative for spotted owl conservation and recovery.

Sub Alternative C

Sub alternative C is identical to Alternative C, except that all stands over 80 years are included in the late-successional land allocation. This reduces the harvest land base from 741,332 acres in Alternative C to 495,507 acres in Sub alternative C. This alternative provides more protection for spotted owls than Alternative C. However, high intensity timber harvest is still the largest component of the harvest land base which is less compatible with spotted owl conservation than moderate intensity, low intensity, or uneven-aged management.

Alternative D

Alternative D has the smallest amount of late successional reserves among the alternatives. In addition to uneven aged and moderate intensity timber areas, this alternative also includes owl habitat areas where timber harvest would be conducted in manner that maintains spotted owl habitat functions. It remains unknown how effective such timber management practices are at maintaining spotted owls in forested landscapes. The majority of studies that have examined impacts of timber harvest have found short-term negative impacts on both spotted owls and the small mammal species that comprise their diets.

BLM RMP – Line-Specific Comments

Volume 1

Page xxxii – Summary

Summary statement indicates that spotted owl populations in the western Cascades and Klamath basin would have stable populations over the next 50 years. However, population levels do vary across the alternatives, and given the current dire situation this species is in, even relatively small differences among alternatives could have significant impacts on the viability of spotted owl populations in the Pacific northwest.

Chapter 2 – Alternatives

The maps in Chapter 2 are difficult to use for evaluating timber management actions in the Klamath/West Cascades region. It would be helpful to keep the colors consistent across all maps. For example, if dark brown is used for high intensity timber management areas in Alt A, continue to use dark brown to represent high intensity management areas in all other alternatives. Access to shapefiles online is very helpful for being able to evaluate the different alternatives. Thank you for providing these.

Volume 2

Chapter 3 – spotted owl

Page 746 – Key Points

Although all alternatives MAY contribute to self-sustaining spotted owl populations in the western Cascades (see my note further down about western cascades – it does not meet the definition of a stable population) and Klamath basin, levels of risk do vary across alternatives. Barred owls are the driver of spotted owl population dynamics under current conditions; however, habitat remains of key importance for recovery.

The figure captions in this section are very difficult to follow which makes comparisons across alternatives difficult. It is difficult to track which figure number goes with each figure (particularly when there is a series of figures within a particular number). Each figure should have the modeling region and the year clearly displayed on the figure itself. If there is more than one image in a figure, it would be helpful if they were labeled a,b,c, etc. and clearly identified in the figure header. It would also be helpful to keep the line symbols the same for each alternative across all graphs (e.g. if you use a dashed line for Alt A on the first figure, use a dashed line for Alt A on all the figures in this section).

Page 779 – Barred owl encounter rates

The second paragraph of footnote 2 should read "The U.S. Fish and Wildlife Service is removing barred owls from four (not three) areas in California, Oregon, and Washington to evaluate the feasibility…."

Entire chapter – there are no estimates of variance for any of the modeled population numbers. It's important to provide some measure of variation in these estimates from HexSim models.

Page 785 – North Coast and Olympic

Spotted owl populations show dramatic declines for all alternatives under current conditions Reducing barred owl effects does have a significant (we assume since there are no confidence intervals) positive effect in many modeling regions.

Page 786 – Oregon Coast Range

Very similar to NCO, but reduced barred owl effect is greater (amount of reduction in barred owl encounter rate was also greater).

Page 787 – West Cascades

How did BLM come to the conclusion that populations in the western Cascades would be stable? Stability is a description of the trend, not total numbers (which are still relatively high after 50 years compared to other regions). This area is declining at a very steep rate. It is not accurate to say that it is stable. The "modified barred owl encounter rate" is not significantly different than the current rate.

Page 788 – East Cascades South

Appears stable under current conditions; however current conditions will likely change when the new meta-analysis comes out. We expect the pattern to look more like the modified barred owl rate graphs (e.g. higher barred owl effect). The modified barred owl encounter rate for this region was 6 percent higher than the current rate and showed a substantial decline in spotted owl populations over time.

Page 789 – Klamath West, page 790 Klamath East

Klamath West is the only region that shows population increases over time under current barred owl effects. Modified barred owl encounter rate is 6 percent lower than current rates, and spotted owl populations show substantial increases under the modified rate. Klamath East shows signs of stabilizing over the next 40 years at a somewhat lower level. The modified barred owl rate is not substantially different than the current rate.

Maintaining healthy spotted owl populations in these 2 regions will be key for spotted owl recovery.

Page 822-823 – Issue 1, Affected Environment

Overall changes in numbers of spotted owl sites meeting RA 10 guidelines for nesting/roosting habitat (RA 10) and changes in amount of "strongly-selected for" habitat in critical habitat (relevant to RA 32) are presented in Chapter 3. Under Alternative B, both show steady increases in amounts of habitat designated critical habitat over time. These analyses were for the entire planning area rather than the lands within the harvest land base.

Management objectives and direction – Appendix B

The Management Objectives and Direction for the preferred alternative (pgs. 949-951) include language under low-intensity timber area (LITA) and moderate-intensity timber area (MITA) about protecting conifer stands and all spotted owl nesting-roosting habitat within nest patches and home ranges, respectively. Each of these "directions" is followed by "(high vs. low)." To our knowledge, "high vs. low" is not defined in the document. What that means, according to your staff, is that this direction (the retention of habitat) would be part of Sub-Alternative B, but not part of the Preferred alternative. The retention of this habitat within spotted owl nest stands, cores and home ranges would provide substantial benefits to the value and functionality of known spotted owl sites, although the fate of these areas is not clear given the language and apparent lack of clarity of what the verbiage means. We believe this could give the reader a false understanding of the effects of the Preferred alternative on spotted owls.

Alts A and C do not specifically address spotted owl habitat in the harvest land base. The section for Alternative B provides a description of many spotted owl habitat protection measures, but I was later informed that these apply only to Sub Alternative B. The text in Appendix B implies that these measures apply to Alt B.

Page 949 – Management direction for LITA

A nest patch is generally delineated with a 300-meter radius circle, but this says 200-meter. Please correct in all places where 200-meter radius circle is used in the document.

Page 950 – Management direction for LITA

In the LITA BLM will retain 15-30 percent of pre-harvest basal area, but when Riparian Reserves make up ≥10 percent of the stand area, BLM will retain near the lower end of this range.

It's not clear why Riparian Reserve (RR) acres are being included in this calculation just because the pre-harvest stand is within both the HLB and the RR. The better the condition of the stand that is part of the RR the less of its components will be retained in the HLB as the legacy for future stands where they are most needed. This will result in a more dramatic transition between RR and HLB which may reduce the quality of the riparian reserve. Spotted owls nest disproportionately in riparian areas and when their nest stands stretch outside the RR into the LITA, they will be more heavily impacted because the stand condition crosses that border. This seems inconsistent with promoting the longevity of those spotted owls in a reserved land allocation. While the goal of the RR is primarily for the benefit of listed fish and water quality (see our comments above) the benefits to terrestrial species of this land allocation should not be under-valued.

Page 950 – Management direction for LITA

The Service recommends incorporating recovery action 12 from the spotted owl recovery plan into the RMP. RA 12 reads:

- ***Recovery Action 12: In lands where management is focused on development of spotted owl habitat, post-fire silvicultural activities should concentrate on conserving and restoring habitat elements that take a long time to develop (e.g., large trees, medium and large snags, downed wood).***

Where BLM lands overlap critical habitat the Service believes there is value in maintaining these legacy components on the landscape as long as possible. Spotted owls are known to use burned areas and the down and standing dead trees contribute to the spotted owl prey base. In addition, these burned areas would be perfect opportunities to allow for natural regeneration to create diverse early seral habitat.

Page 951 – Management direction for MITA

In the MITA BLM will retain 5-15 percent of pre-harvest basal area, but when Riparian Reserves make up ≥10 percent of the stand area, BLM will retain near the lower end of this range.

As with our comments above regarding the LITA, this standard seems incongruous and we do not understand why riparian reserve acres influence the harvest unit prescription.

Page 962 – Snags and Down Woody Material

We recommend setting snag and down woody material levels based on plant association groups instead of a one size fits all approach. The listed retention levels seem much lower than what are recommended for the Oregon coast range portions of the Salem, Eugene, Roseburg and Coos Bay districts.

The Service looks forward to continuing to work with the BLM to find ways to minimize the effects of timber management on spotted owls within the planning area through this planning effort and into the future.

Red Tree Vole –

The Service strongly recommends that, within the north Oregon coast distinct population segment of the red tree vole (*Arborimus longicaudus*), BLM carry forward into their RMP the existing management that they are doing for the red tree vole under the Survey and Manage standards and guidelines of the NWFP. That is, doing pre-project surveys, identifying high-priority sites to provide a reasonable assurance of species persistence, and implementing existing red tree vole management recommendations that are regularly updated as new information is received. In our status review of the red tree vole, the Service determined that the species warranted listing under the Endangered Species Act but that listing was precluded by higher priority listing actions. In that review, we concluded that the reinstatement of the 2001 Survey and Manage standards and guidelines contributed to red tree voles and their habitat and that existing regulatory mechanisms (i.e. application of the 2001 survey and manage standards and guidelines) were adequate to provide for tree vole conservation on federal lands where they occur within the distinct population segment (FR 76, 63720, October 13, 2011, p. 63747). Substantially deviating from that management will likely increase threats to red tree voles in a part of their range where they are rarely found and where much of the surrounding landscape is not managed in ways conducive to tree vole persistence. We realize the BLM may not decide to incorporate a "Survey and Manage" program in its RMP; we are only suggesting that for this species the *approach* from the Survey and Manage program be applied to red tree voles.

Page 738, second paragraph under "Background" heading. There is new and published information on tree vole home ranges that should be added (Swingle and Forsman 2009).

Page 739, bottom incomplete paragraph. BLM says it forecast the number of stands occupied by red tree voles in the future by applying observed detection rates and mean size of occupied stands against the acreage of habitat in the harvest land base. However, the description of this process in the following 2 paragraphs does not follow, because you mention nothing about occupied stand size, but bring in a new variable, survey polygons, which is not explained and its relevance and place in this analysis is unclear.

Page 740, first full paragraph, first sentence. Does a 22.9 percent detection rate man that 22.9 percent of the surveyed area had signs of tree voles, or that there was a 22.9 percent probability of detecting a vole if it was present?

Page 742, last paragraph, first sentence. BLM states there are 395 red tree vole observations. Are these truly observations of red tree voles, or of nests? Should be explicit throughout the document as to whether you are talking about voles, nests, or nest sites.

Page 962, 2nd open bullet under first solid bullet. BLM notes activities that are prohibited within tree vole habitat areas, but there is an extensive amount of work that is found within BLM's existing red tree vole management recommendations document (Forest Service and Bureau of Land Management 2000, entire) that should also be considered when managing red tree vole habitat areas and be incorporated into the final RMP. Same comment for the analogous bullet on page 983.

Page 962, 3rd open bullet under first solid bullet. BLM states that identified habitat areas may be designated as non-high priority and released for management direction if they occur south of Highway 20. Is there a process described in the RMP for determining how that designation would be made? Does this alternative incorporate the existing high-priority site processes currently used for red tree vole? The way this is written, it sounds like all sites would be released from management for red tree voles, which begs the question of why do the surveys in this area to begin with. Such a widespread release is of concern to the Service. Instead, we advocate for the existing process of retaining all sites as high priority (with case-by-case exceptions being made per BLM Instruction Memorandum No. OR-2012-036), and further developing a more purposeful assessment of the landscape to identify high-priority sites based on local understanding of such things as habitat condition and distribution, tree vole occurrence and distribution, and potential trends in tree vole habitat development or retention. Same comment for the analogous bullet on page 983.

Listed suckers –

There is very little information regarding the shortnose and Lost River suckers (*Chasmistes brevirostris* [SNS] and *Deltistes luxatus* [LRS], respectively) in the DEIS. The majority of the Service's comments are expected to be conveyed during the Early Review process.

Regarding the following statement: "very limited ability to affect these non-salmonid and resident salmonid fish species or their critical habitat through forest management, infrastructure maintenance, or habitat manipulations" (Page 218). This assertion is made because only 4.3 percent of critical habitat of the shortnose sucker (SNS) is on BLM lands. The Service believes more analysis is required here for a couple of reasons.

1. This quote mentions effects to the species and critical habitat, but the conclusions drawn only reference critical habitat.

2. The specific population of interest here is Gerber Reservoir in southeastern Klamath County. The reservoir and its tributaries are critical habitat for the SNS, and the area surrounding the reservoir is nearly entirely managed by BLM. This population of SNS is one of only three spawning populations remaining, providing important redundancy to

the species. In numbers, the BLM may have the ability to affect 33 percent of all spawning SNS populations.

3. The table referenced to support the exclusion of suckers from the analysis only includes miles of critical habitat. This appears to ignore the acreage of critical habitat for SNS in the reservoir. This reservoir likely comprises a small percentage of all SNS lake critical habitat, but it should be addressed because of its relative importance and because BLM management practices could affect this population of SNS even if the amount of stream critical habitat is relatively low.

On page 217 and in the literature cited section, the Klamath sucker Recovery Plan is cited with a 2012 date. This should actually be 2013.

Western Snowy Plover –

Under the Preferred Alternative of the Draft RMP, recreational activities, including the use of motorized vehicles, would be allowed in beach habitats occupied by western snowy plovers (*Charadrius alexandrinus nivosus*)(snowy plover). As the BLM acknowledges, the use of vehicles on beaches may adversely affect snowy plovers and their habitat. Vehicles can displace and sometimes kill foraging, roosting, brooding, or incubating adult snowy plovers. In breeding habitat they may cause destruction of eggs, chicks, and adults, abandonment of nests, and considerable stress and harassment to snowy plover family groups (Warriner et al. 1986, p. 25; Stern et al. 1990, p. 13; Fish and Wildlife Service 2007, p. 65). Since snowy plovers roost and spend time in sand depressions, including tire tracks (Fish and Wildlife Service 2007, p. 66), chicks that are unable to climb out of them are more vulnerable to the repeated use of tracks by vehicles. At wintering sites, disturbance from motorized vehicles may harass snowy plovers and disrupt their foraging and roosting activities, thereby decreasing energy reserves needed for migration and reproduction (Fish and Wildlife Service 2007, p. 66). Vehicles on coastal dunes may be destructive to dune vegetation, especially sensitive native plant species. They may affect remote stretches of beach where human disturbance would otherwise be slight if access were limited to pedestrians.

To adequately protect snowy plovers at the two sites where BLM lands support the species (the New River Area of Critical Environmental Concern [ACEC] and the Coos Bay North Spit[CBNS]), the Service recommends the BLM include a set of conservation measures in its RMP. These measures are largely excerpted from two existing consultations on BLM actions at both the New River ACEC and the Coos Bay North Spit (Fish and Wildlife Service 2008 and 2011), and represent either project design criteria, best management practices, conservation recommendations or terms and conditions included in those consultations. These measures represent current BLM management in these areas and we believe they are consistent with the conservation and recovery of the snowy plover in Oregon. These recommendations, nor the inclusion of them in the BLM's RMP, do not in any way alter those existing consultations or the BLM's responsibility for adhering to the proposed action, the reasonable and prudent measures or terms and conditions contained in them. These conservation measures are:

Coos Bay North Spit

Nesting Season Management (March 15 to September 15) –

Dry Sand Management

The BLM should coordinate with the Oregon Parks and Recreation Department (OPRD) to implement seasonal beach restrictions from 15 March to 15 September of every year on 1.5 miles of the Ocean Shore Recreation Area for protection of the snowy plover on South Beach approximately one mile north of the Coos River North Jetty north to 2.5 miles north of the jetty. The following seasonal beach restrictions should apply:

- Public use will be prohibited from the dry sand portions of the ocean beach. The wet sand portion of the beach is open to all visitors on foot and horseback, but all dogs should be on leash;
- Place signs delineating the closed area at each end of the closure on the beach during the snowy plover nesting season;
- Rope off the dry sand portion of the ocean beach that is under BLM jurisdiction from the Federal Aviation Administration (FAA) tower south to the Corps of Engineers boundary to clearly define seasonal closure and place decaled posts reading "No Entry Beyond This Point" approximately every 100 feet;
- Locate informational signs and maps related to the snowy plover restrictions at the three entry points from the Foredune Road to the beach north of the snowy plover nesting area;
- Portions of the BLM-administered beach outside of the restricted nesting area can remain open to public use year round, including street-legal vehicles (i.e., north of the FAA tower);
- If snowy plovers nest on the beach north of the FAA tower, the dry sand portion of the beach within 0.25 miles of the nest should be closed to all public entry while the nest is active.

Inland Habitat Restoration Area Management

The BLM should implement seasonal beach restrictions from 15 March to 15 September on three inland Habitat Restoration Areas (HRAs) for protection of the snowy plover. These include approximately 72 acres located on the 1995 HRA (27 acres), 1998 HRA West (21 acres), and 1998 HRA East (24 acres). The following seasonal beach restrictions are needed:

- The Foredune Road, South Dike Road and Bayside Road are open year-round to All-Terrain Vehicles and street legal vehicles excluding the 0.9-mile section of the Foredune Road that bisects the HRAs during the snowy plover nesting season. The 0.5-mile reroute around the HRAs also remains open year-round;
- Vehicles are prohibited in the HRAs year-round;
- The perimeter of BLM HRAs will be signed and closed to all public use during the nesting season with decaled posts placed 200 to 300 feet apart;

Administrative Use

Exceptions to the above mentioned beach access restrictions allow for permitted personnel including law enforcement officers and uniformed agency personnel to conduct snowy plover management activities associated with monitoring and compliance and the maintenance of ropes and signs. Personnel should conduct activities in accordance with the following limitations and responsibilities, as described in the biological assessment:

All BLM Personnel should:

- Keep vehicular access to the absolute minimum required to manage the area;
- Restrict vehicular use is to the lowest part of the beach at speeds of 15 mph or less;
- Prohibit vehicle use inside the dry sand closure;
- Strictly prohibit all vehicles within the HRAs;

BLM Law Enforcement Officers (LEOs) should:

- Patrol the North Spit as availability allows;
- Adjust the number of patrol hours up or down to correspond to periods of highest recreational use and on holiday weekends;
- Collect data on visitor use and compliance on standardized forms when violations are observed;
- Be assisted periodically by Coos County law enforcement officers, Forest Service rangers, and State Police; and
- Cite and issue warnings, when deemed appropriate, to visitors that are not in compliance with posted regulations.

BLM Compliance Monitors should:

- Patrol the North Spit as availability allows spending the majority of time in the proximity to snowy plover areas;
- Adjust the number of patrol hours up or down to correspond with periods of high or low snowy plover nesting activity (peak activity is usually June to late August);
- Schedule patrols to minimize overlap with LEO patrols in order to maximize BLM presence on the North Spit;
- Collect data on visitor use and compliance on standardized forms, record violations and alert LEOs when violations are observed;
- Perform public outreach by talking with the public about snowy plover biology and seasonal closures;
- Distribute maps of the North Spit, and
- Perform routine maintenance of signs, ropes, and other barriers.

The BLM should implement the following measures:

1. Avoid disturbance and minimize potential loss of nests or nesting snowy plovers:
    a. Ensure efforts to manage recreation are enforced and effective through the following measures:

i. Work with state Oregon Parks and Recreation Department to address high number of vehicle violations on South Beach during the nesting season.

ii. Ensure that individuals who patrol beaches, including law enforcement officers and volunteers, are trained in snowy plover biology and the measures required to reduce potential harm or disturbance to snowy plovers. Ensure that staff participate in law enforcement/snowy plover training and coordination meetings whenever available (e.g. workshops, refresher courses, video training).

iii. Compliance monitors/seasonal Interpretive Specialists shall continue to inform law enforcement personnel about the location of snowy plover nests and activities. Officers should focus their attention and time on areas where snowy plovers may be particularly vulnerable.

iv. Continue to work with the snowy plover working group and the law enforcement subcommittee to improve signage and resolve law enforcement issues.

b. Monitor and evaluate compliance of recreation through the following measures:

i. Monitor compliance with recreational restrictions and continue to collect data on standardized forms for comparison between years.

ii. Reduce impacts to snowy plovers by targeting efforts based on visitor compliance data (i.e., number or percent of violations relative to number of people/dogs during the course of the breeding season).

iii. Integrate annual compliance monitoring information into the upcoming year's management strategy.

iv. Ensure nests outside roped areas are protected. Either rope and sign the exposed nest, or contact the Service immediately to determine if any protection strategy is necessary.

2. Reduce impacts on foraging and resting snowy plovers and broods through the following measures:
   a. Disseminate information about the restrictions prior to March 15 of each year over the term of the proposed action.
   b. Continue to conduct public outreach during compliance patrols.
   c. Implement strategies for minimizing disturbance by targeting days and hours when disturbance and violations are most likely to occur, and by providing a Law Enforcement or Compliance Monitoring presence during those times.
3. Maintain snowy plover productivity at nesting areas through the following measures:
   a. Fund annual monitoring on BLM lands at Coos Bay North Spit, conducted by the Oregon Natural Heritage Information Center and cooperatively funded by State and Federal agencies. This project produces data essential to snowy plover recovery efforts, management actions, and assessment of productivity and take of the western snowy plover.
   b. Participate in the development of predator action planning annually.
   c. Manage predators of the snowy plover on BLM lands at Coos Bay North Spit.

Nesting Season Management (15 March to 15 September)

1. Coordinate with OPRD to implement seasonal beach restrictions for portions of the New River ACEC (ocean beach and spit) from 15 March to 15 September each year. The seasonal beach restrictions will include the following measures:
    a. Prohibit recreational use from the dry sand portions of the New River ACEC with the exception of the one-mile segment of BLM-administered land at Floras Lake;
    b. Permit non-motorized public uses on the wet sand portions of the New River ACEC; the exception would be that dogs and kite-flying would be prohibited on the wet sand associated with snowy plover management areas;
    c. Prohibit motorized vehicle use; and
    d. Limit access to the New River ACEC by BLM and resource agencies cooperating on snowy plover management to:
        i. walking on the dry sand to conduct law enforcement activities, to place and/or maintain ropes or signs, to conduct snowy plover monitoring efforts, or to implement predator management activities. Entry time should be limited to only that needed to complete the management activities, and a reasonable attempt should be made to mask any footprints upon leaving the area; and
        ii. motorized vehicles (e.g, all-terrain vehicles (ATVs), street legal vehicles) on the wet sand to conduct law enforcement and required administrative activities (e.g., place and maintain ropes or signs) and to conduct snowy plover monitoring efforts, to implement predator management activities, or for emergency response.
2. BLM should continue to implement the Cooperative Management Agreement between BLM, Curry County and OPRD.
3. For the 0.4-mile segment of BLM-administered land directly south of Curry County land, the BLM should manage according to the following procedures:
    a. Prohibit public access by signing and roping the dry sand portion of the beach with a 50-meter buffer if a snowy plover nest is discovered.
    b. Non-motorized public uses should be permitted on the wet sand portions of the county-owned ocean beach and spit;
4. The remaining 0.6-mile segment of BLM-administered land on the ocean beach west of Floras Lake should also be managed as described in #3. This portion of the ocean beach should be open to non-motorized recreational use unless snowy plovers nest or brood young in the area.
5. BLM should manage breaches located outside of HRAs according to the following procedures:
    a. If a snowy plover nest is discovered, the BLM shall prohibit public access by signing and roping the breach area;
    b. Allow access as described in section 1d above. The adjacent wet sand beach should remain open to public use.
6. BLM should provide two authorized public access points to the New River ACEC ocean beach and spit at Storm Ranch boat ramp north of Floras Lake. Public use from these access points are exclusively for non-vehicular activities. The access road to the Storm

Ranch boat ramp should be closed to all vehicles with exceptions for law enforcement, emergency responders, and personnel conducting ACEC related duties, snowy plover monitoring and predator management.

7. BLM should provide law enforcement coverage during the snowy plover nesting season to ensure compliance with ACEC regulations including seasonal beach restrictions. If the net effect does not provide adequate law enforcement coverage (e.g., increase in violations during or after a busy weekend or event), additional means to supplement the coverage should be pursued. Other law enforcement coverage may periodically be provided by Oregon State Police officers and OPRD beach rangers.
8. Ensure compliance with seasonal beach restrictions according to the following procedures:
    a. Conduct patrols based on times of highest snowy plover nesting activity (usually mid-June to late August) and observe and document public compliance with snowy plover restrictions;
    b. Distribute educational materials (i.e., brochures and maps), be a public contact, and perform any required repairs or maintenance of signs, ropes, fences, barriers, etc.;
    c. Wear a BLM uniform during patrols; contractors and volunteers will wear "Plover Monitor" clothing or other forms of identification to signify their status; and
    d. Provide an annual compliance report to the Service, OPRD, and Curry County.
9. Signs and symbolic fencing should be placed at several locations on the New River ACEC and lands owned by Curry County. BLM personnel will determine the placement of signs/ropes at the beginning of the breeding season and may adjust placement throughout the season due to the dynamic nature of the beach and corresponding presence of snowy plovers and snowy plover habitat. The description below provides guidelines for BLM's proposed approach to sign/rope placement:
    a. Erect several types of signs, such as the standard "Do Not Enter" sign, for the snowy plover nesting season at key locations;
    b. Place "Entering Snowy Plover Management Area" signs at the Storm Ranch and Floras Lake public access points;
    c. Place signs, posts and ropes on the ocean beach and the eastern boundary of the HRA, across New River from Storm Ranch, as follows:
        i. east to west from the wet sand of the beach to the river shoreline to delineate the north and south boundaries of the HRA;
        ii. at intervals of approximately 100 to 200 feet north/south along the river, demarcating the east boundary of the HRA and alerting the public that the HRA is closed to all recreational activity during the snowy plover breeding season;
        iii. at breach sites in the HRA, which should be marked with ropes and signs on the river side to remind the public that these areas are closed during snowy plover season; and
        iv. at closer intervals across from the boat ramp or other identified areas as the need arises;
            1. Place "No Entry" signs, rope and posts at least 164 feet from a snowy plover nest if snowy plovers are detected on the BLM-managed land near Floras Lake, until such time that the nest fails or the birds fledge and leave the monitoring site;

2. Place signs, ropes, and posts on the north and south ends of the cooperative management area. The ocean side will have signs placed between the wet and dry sand, and will be roped if the site becomes occupied with snowy plovers; and
3. Continue to post along the Counties' river segment, informing boaters of the snowy plover restrictions and not to disembark in the area. Other informational signing will be placed along the meadow trail alerting the public of snowy plover restrictions ahead on County property.

10. BLM and cooperating agencies should notify the public of the snowy plover seasonal beach restrictions prior to the start of the restrictions (15 March) and Memorial Day according to the following procedures:
    a. Issue two news releases describing the snowy plover management measures and general snowy plover information;
    b. Post maps and the current beach restrictions on the message boards at the Floras Lake and Storm Ranch access points; and
    c. Provide public outreach using seasonal on-site monitors (staff or volunteers) to distribute maps, brochures and up to date information. Monitors will focus their efforts in areas where visitors congregate, where problems have been reported or noted and where snowy plover breeding activity may be most vulnerable to impacts. Presentations, school programs and other methods of outreach will also be conducted when requested.
11. Avoid disturbance and minimize potential loss of nests or nesting plovers:
    a. Ensure efforts to manage recreation are enforced and effective:
        i. Work with OPRD to reduce dog and vehicle violations on the New River ACEC during the nesting season.
        ii. Ensure staff, including law enforcement officers and volunteers that patrol beaches, are trained in plover biology and required measures to reduce potential harm or disturbance to plovers. In addition, ensure plover monitors and law enforcement officers participate in coordinated law enforcement/plover training and coordination meetings when available (e.g., workshops, refresher courses, video training).
        iii. Compliance Monitors/Interpretive Specialists shall continue to inform law enforcement personnel about the location of plover nests and activities. Officers should focus their attention and time on areas where and periods when plovers may be particularly vulnerable.
        iv. Continue to work with the plover working group to improve signage and resolve law enforcement issues.
    b. Monitor and evaluate compliance of recreation:
        i. Monitor compliance with recreational restrictions and continue to collect data on standardized forms for comparison between years.
        ii. Reduce impacts to plovers by using visitor compliance data (i.e., number or percent of violations relative to number of people/dogs during the course of the breeding season) during the season to strategically target areas that are a concern for public education and enforcement; and

iii. Ensure nests outside roped areas are protected. Either rope and sign the exposed nest, or contact the Service immediately to determine if any protection strategy is necessary.

12. Reduce impacts on foraging and resting plovers and broods:
    a. Disseminate information about the restrictions prior to 15 March of each year over the term of the proposed action.
    b. Continue to conduct public outreach during compliance patrols.
13. Maintain productivity of at least 1.0 fledged chick per male over three consecutive years:
    a. Based on the productivity data observed at New River (Fish and Wildlife Service 2011, pp. 33-35), the breeding population will maintain a mean hatch rate of at least 49 percent and a fledging success rate of at least 39 percent over three consecutive years at New River ACEC (i.e., the lower confidence interval calculated for the mean hatch and fledge rates over 2002-2010).
    b. Conduct or fund annual monitoring on BLM lands on the New River ACEC, that measures productivity in the following ways: hatch rate, fledging success rate, number of breeding adults, and number of fledged chicks per male. This project produces data essential to plover recovery efforts, management actions, and assessment of productivity and take of the western snowy plover.
    c. Participate in annual predator management action planning for plover areas.
    d. Manage predators of the western snowy plover on the New River ACEC.
    e. Continue to implement habitat restoration, maintenance, and breaching activities as described in Fish and Wildlife Service (2008) and the New River Health EA OR 128-03-11.

Winter Season Management (September 16 to March 14)

Management of CBNS varies seasonally. Some restrictions are present during March 15 to September 15 to protect nesting snowy plovers and other natural resources on the spit. The following is a description of those activities that are managed differently in the winter; otherwise, all activities remain the same year-round.

Inland Habitat Restoration Area Management

Inland areas should be open to non-motorized use. Signs pertaining to nesting area closures will be replaced by decaled posts that explain BLM regulations. Regulatory and interpretive signs remain in place year-round. The Foredune Road, South Dike Road and Bayside Road are open year-round to ATVs and street legal vehicles excluding the 0.9-mile section of the Foredune Road that bisects the HRAs during the snowy plover nesting season. The 0.5-mile reroute around the HRAs also remains open year-round.

1. Conduct the following during winter season management (16 September to 14 March):
    a. Removal of ropes, posts, fences, signs used to delineate snowy plover nesting areas;
    b. Permit non-motorized public uses in all areas of the New River ACEC ocean beach and spit;
    c. Prohibit motorized vehicles from the New River ACEC ocean beach and spit, except for access needed by BLM and resource agencies cooperating on snowy plover management or to provide emergency response;

d. Open the access road to the Storm Ranch boat ramp to street legal vehicle traffic and non-motorized recreation;
e. Provide two authorized public access points to the New River ACEC ocean beach and spit (Storm Ranch and Floras Lake);
f. Provide law enforcement coverage to ensure compliance with the New River ACEC regulations;
g. Conduct compliance monitoring patrols of BLM lands;

Western Lily –

To most effectively contribute to the conservation and recovery of the Western Lily (*Lilium occidentale*), the Service would like the BLM to specifically conduct the following activities:

1) prevent encroachment of competing vegetation by manually removing shrubs and trees
2) prevent lowering ground water levels as a result of actions that alter hydrological regimes
3) exclude deer and elk when heavy grazing is shown to be contributing to lowered productivity
4) prevent destruction or filling of sites by delineating and protecting population boundaries.

Cook's Desert Parsley and Gentner's Fritillary –

The majority of this section is comprised of project design criteria, conservation recommendations or terms and conditions excerpted from existing consultations. These recommendations, nor the inclusion of them in the BLM's RMP, do not in any way alter those existing consultations or the BLM's responsibility for adhering to the proposed action, the reasonable and prudent measures or terms and conditions contained in them. These conservation measures are:

Heavy equipment –

For all projects involving the use of heavy equipment, protect plant sites by a 100-foot radius buffer. Avoid all use of heavy equipment within this buffer. Heavy equipment includes, but is not limited to, tractors, dozers, loaders, graders, excavators, cranes, skid steers, and similar equipment. Pick-up trucks, ATVs, utility vehicles, and similar soft-wheeled vehicles may be used within a plant site on a limited basis in dry conditions in the dormant season, if authorized by the project botanist.

All projects involving heavy equipment use near plant sites should incorporate pre-disturbance surveys for non-native invasive plants. Project botanists will prescribe appropriate invasive plant treatments.

All heavy equipment used within Cook's desert parsley (*Lomatium cookii*) critical habitat or near listed plant sites should be cleaned prior to entering BLM lands. All dirt and vegetation should be washed from the equipment exterior, including any unattached accessory equipment, such as augers, scoops, and blades.

Projects involving heavy equipment in Cook's desert parsley critical habitat should be evaluated by a hydrologist prior to implementation. The hydrologist should evaluate potential effects of the

proposed actions on site hydrology and prescribe appropriate project design criteria (PDC) to minimize impacts, which may include (1) seasonal entry restrictions, (2) limiting the extent of disturbance, (3) temporary engineered solutions to reduce compaction and erosion, and (4) restoration of vegetation and hydrologic function.

Project Design Criteria for specific project types –

A. Abandoned Mine Land Actions

- Conduct one year of surveys of suitable habitat for projects that involve excavation or use of heavy equipment. Surveys are not required if a site is heavily disturbed and mostly free of vegetation.
- Protect all plant occurrences with site-specific PDC prescribed by the project botanist in cooperation with the project leader.
- Follow general PDC for Use of Heavy Equipment.

B. Cultural Resources Projects

- Conduct one year of surveys of suitable habitat for projects that involve excavation or use of heavy equipment. Surveys are not required if a site is heavily looted or otherwise disturbed and mostly free of vegetation.
- Protect all plant occurrences with site-specific PDC prescribed by the project botanist in cooperation with the project leader.
- Follow general PDC for Use of Heavy Equipment.

C. Fuels Management and Wildfire Suppression

Private land fuels reduction

- Recommend to landowners to treat fuels outside of the March 15 to July 1 growing season, when Gentner's fritillary (*Fritillaria gentneri*) is mostly dormant or conduct one year of pretreatment surveys if treating during the growing season.
- For treatments that include or are immediately adjacent to Cook's desert parsley critical habitat, encourage the implementation of PDC listed under Manual fuel reduction and hand piles below.

Prescribed burning

- Conduct one year of surveys for broadcast burning.
- Restrict broadcast burning within plant sites to the dormant season.
- Conduct one year of surveys for pile burning. If there is a documented Gentner's fritillary occurrence within 1,500 feet of the pile burn area, then an additional year of surveys must be performed.
- If indeterminate fritillary leaves are observed within the pile burn area, then those plants will be mapped and monitored for two growing seasons following treatment.
- Pile material at least 25 feet away from plant sites.
- Rehabilitate pile burn scars with native seed and mulch when adjacent to listed plant sites or in critical habitat.

Manual fuel reduction

- Conduct one year of surveys for manual thinning. However, if thinning will be followed by pile burning in Gentner's fritillary habitat, then follow survey requirement for pile burning under Prescribed burning above.
- Maintain 25-foot no-treatment buffers around plant sites during the growing season. Treatment inside of buffers in the dormant season is not likely to damage the plant.

Mechanical fuel reduction

- Conduct two years of surveys for Gentner's fritillary.
- Follow general PDC for Use of Heavy Equipment.

Wildfire Suppression

- Situations involving risk to human health and safety, including firefighters or first responders, should trigger initiation of emergency consultation. If impacts occur under an emergency consultation addressing the response to a fire, the effects will be included in that consultation. Where wildfires do not pose a risk to human health and safety, apply the following PDCs.
- Resource Advisors/Environmental Specialists should advise Line Officers and Incident Commanders to minimize impact to listed species and their habitat during suppression activities, as long as doing so doesn't delay a response that is necessary for human safety.
- Maintain updated plant site and critical habitat locations readily accessible to fire staff in GIS format and in Resource Information Books.
- Follow general PDC for Use of Heavy Equipment.
- Coordinate with the Level 1 Team, who will inform the Service of impacts to listed species.
- Rehabilitate fire lines and staging areas with native seed and mulch, where needed to reduce non-native plant invasion, erosion, and other issues that could affect listed plant sites.

D. Mining Operations

Notice-level mining activities

- Notify the operator that a Plan of Operation is required when the proposed activities are within designated critical habitat or when the proposed activities may affect listed plant sites.

Plan-of-operation mining activities

- Limit operations to reprocessing old mine tailings.
- Restrict project area access to existing official roads.
- Follow general PDC for Use of Heavy Equipment.

E. Quarry Operations

- Conduct one-year Gentner's fritillary surveys for expansion of existing rock quarries into suitable habitat.
- Conduct two-year Gentner's fritillary surveys for development of new rock quarries.
- Follow general PDC for Use of Heavy Equipment.

F. Range Operations

- Protect known occurrences if grazing is occurring within plant sites during the growing season. Protection measures may include changing the timing of release or the grazing system, fencing small populations, or modifying the allotment boundaries.
- Allow grazing during the dormant season without surveys or protection measures.
- Periodically monitor grazed sites.
- For new allotments or renewals for which two years of surveys have not previously been completed, conduct one year of surveys in suitable habitat. If there is a documented Gentner's fritillary occurrence within 1,500 feet of the allotment area, an additional year of surveys will be performed in suitable habitat.
- For renewal of allotments in which two years of surveys have previously been completed, conduct one year of surveys around known plant sites only. Project botanists should define the extent of the survey area based on past survey results, knowledge of the site, and knowledge of livestock use patterns.
- Conduct one year of surveys for construction of range improvements if the action has the potential to affect listed plants.
- Protect known sites during maintenance of existing improvements. Surveys are not necessary.

- Consult with permittee and the Service prior to augmenting existing populations or creating new populations of listed plants within allotments.

G. Recovery Actions

Research or recovery collections

- The Service recommends allowing the collection of listed plants (seeds, bulbs, and plants) only if the collector has obtained a permit from the Service and agrees to coordinate all actions with BLM.
- The Service recommends allowing collections of listed plants only for the purposes of research or recovery actions.
- The Service requests that you report all collection activities annually to the Service.

Augmentation of existing populations or creation of new populations

- Coordinate all population creation and augmentation activities with the Service.
- The Service requests that you report all population creation and augmentation activities and subsequent monitoring results annually to the Service.

Habitat improvement

- For projects that involve manual fuel removal, follow PDC for C. Fuels Management and Wildfire Suppression, subpart Manual Fuel Treatments.
- For projects that involve prescribed fire, follow PDC for C. Fuels Management and Wildfire Suppression, subpart Prescribed Fire.
- For projects that involve the use of herbicides within and around listed plant sites:
    - The actions should be allowable under the implementing District's most current NEPA document that covers the use of herbicides to treat vegetation.
    - Treat non-native invasive plants and native woody vegetation primarily during the dormant season using post-emergent herbicides applied by backpack sprayers, spray bottles, wicks, and other selective equipment and techniques (e.g., cut-stump, hack-and-squirt, direct inject).
    - Use post-emergent herbicides during the growing season only if adequate protection of listed plants can be assured through the use of highly selective techniques or protective measures, such as covering listed plants with tarps or buckets during application.
    - Use pre-emergent herbicides only in controlled experiments coordinated with the Service.
    - Monitor the effects of all herbicide use for a period of two growing seasons and report findings annually to the Service.

H. Recreation Projects and Administrative Site Maintenance

- Conduct one year of surveys for construction or expansion of trails, campgrounds, parking lots, toilet facilities, or other recreational facilities.
- Follow general PDC for Use of Heavy Equipment.
- Project botanists should cooperate with project leads to prescribe site-specific protection measures to protect plant sites from project actions.
- Surveys are not necessary for maintenance activities, sign installation, fence installation, hazard tree falling, and closing illegal trails.
- For projects that involve the use of herbicides near listed plant sites, we recommend applying the following PDC:
    - The actions should be allowable under the implementing District's most current NEPA document that covers the use of herbicides to treat vegetation.

- Treat vegetation only during the dormant season (of the listed plant species) using post-emergent herbicides. The use of pre-emergent herbicides for recreation purposes is not covered.

I. Research and Monitoring Actions

- Balance the value of research or monitoring data against potential site impacts associated with repeated site entry, particularly for intensive plot designs. Adjust designs and schedules accordingly.
- Report monitoring data and research results annually to the Service.

J. Road and Bridge Maintenance and Construction

New construction

- Conduct one year of surveys along the proposed corridor. If there is a documented Gentner's fritillary occurrence within 1500 feet of the corridor or indeterminate leaves are located, an additional year of surveys should be performed.
- New road construction is not recommended within Cook's desert parsley critical habitat.
- Follow general PDC for Use of Heavy Equipment.
- Protect known plant sites by aligning road prisms to maintain 100-foot buffers.

Maintenance

- Surveys are not necessary.
- Follow general PDC for Use of Heavy Equipment.
- Protect all plant occurrences with site-specific PDC prescribed by the project botanist in cooperation with the project leader.

K. Rights-of-way (ROW) Permitting for Roads

New construction for ROW permits

- Follow PDC listed above for Road and Bridge Maintenance and Construction, subpart New construction.

Road maintenance for ROW permits

- Follow PDC listed above for Road and Bridge Maintenance and Construction, subpart Maintenance.

L. ROW Permitting for Other Uses

Utility and communication site construction

- Conduct one year of surveys along the proposed corridor or site.
- New construction is not allowed within suitable dispersal or germination habitat for Cook's desert parsley.
- Follow general PDC for Use of Heavy Equipment.
- Protect known plant sites by aligning utility or site footprints to maintain 100-foot buffers.

Utility and communication site maintenance

- Surveys are not required.
- Follow general PDC for Use of Heavy Equipment.
- Protect all plant occurrences with site-specific PDC prescribed by the project botanist in cooperation with the project leader.

ROW Permits for events or other uses

- Conduct one year of surveys along the proposed use corridor or site, except minimum impact permits, for which surveys are not required.
- We recommend avoiding the issuance of event permits in suitable dispersal or germination habitat for Cook's desert parsley with the exception of minimum impact permits.
- Protect all plant occurrences with site-specific PDC prescribed by the project botanist in cooperation with the project leader.

M. Silvicultural Treatments

- Conduct one year of surveys for all silvicultural projects.
- Avoid reforestation in suitable dispersal or germination habitat for Cook's desert parsley.
- Avoid planting trees within 100 feet of plant sites.
- Avoid applying fertilizer within 25 feet of plant sites.
- Avoid trapping gophers within 25 feet of plant sites.
- Restrict manual thinning and brushing within 25 feet of plant sites to the dormant season.
- For Gentner's fritillary, retain 40 percent combined canopy cover of trees and shrubs within 25-foot plant site buffers.
- Pile material from thinning, brushing, and pruning at least 25 feet away from plant sites.
- For mechanical work, follow general PDC for Use of Heavy Equipment.
- For non-native invasive plant treatments with herbicide, follow PDC for Non-native Invasive Plant Control. Other chemical site preparation is not permitted.

N. Special Forest Product Harvesting

- Surveys are not necessary.
- When possible, send harvesters to areas that have previously been cleared for listed plants.
- Avoid burl harvesting within 100 feet of known occurrences or in suitable dispersal or germination habitat for Cook's desert parsley.
- Project botanists should review firewood cutting areas and commercial permits for special forest product harvesting and assign site-specific PDC to protect plant sites and critical habitat. Firewood Permits: No firewood permit gathering should be allowed within known occurrences. Road segments close to known occurrences may need to be closed to prevent incidental impacts.

O. Tree Harvesting

- Conduct two years of surveys, except for salvage sales and incidental tree harvests under permit, which only require a one-year survey for both commercial and non-commercial harvests.
- Avoid tree harvest activities in suitable dispersal and germination habitat for Cook's desert parsley. Permit felling of hazard trees; however, the trees should be left on site unless they can be accessed by a self-loader from a roadway.
- Exclude harvest activities, including falling, skidding, and yarding, from within 25 feet of plant sites.
- Avoid locating anchor trees within plant sites.
- Avoid burning landing slash within 25 feet of plant sites.
- Construct landings at least 300 feet from plant sites. Permit use of previously existing landings when more than 100 feet away from plant sites.
- Realign new proposed logging road corridors, truck turn-arounds, and staging areas to maintain 100-foot buffers. Permit use of existing roads, even when located less than 100 feet from plant sites.
- Follow general PDC for Use of Heavy Equipment.

P. Watershed Restoration

Road closures

- No surveys are required for actions within the existing road prism.
- Follow general PDC for Use of Heavy Equipment.

Road obliteration

- Conduct one year of surveys if the action will involve disturbance of intact natural habitat outside of the road prism; otherwise, no surveys are required.

- Follow general PDC for Use of Heavy Equipment.

Cross-drainage culvert replacement or repair

- No surveys are required for actions within the existing road prism; otherwise, conduct one year of surveys.
- Follow general PDC for Use of Heavy Equipment.

Stream structure and culvert placement/repair

- Conduct one year of surveys if the action will involve disturbance of intact natural habitat outside of the stream channel; otherwise, no surveys required.
- Avoid tree falling within plant sites.
- Follow general PDC for Use of Heavy Equipment.

Meadow and floodplain restoration

- For projects that involve manual woody vegetation removal, follow PDC for C. Fuels Management and Wildfire Suppression, subpart Manual Fuel Treatments.
- For projects that involve prescribed fire, follow PDC for C. Fuels Management and Wildfire Suppression, subpart Prescribed Fire.
- Avoid planting trees or shrubs within 100 feet of plant sites.
- Avoid falling trees within plant sites.

Q. Non-native Invasive Plant Control

Roadside herbicide application

- Surveys are not required within existing road prisms.
- Follow implementing District's most current NEPA document that covers the use of herbicides to treat vegetation.
- When spraying within 1,500 feet of known plant sites, treat only during the dormant season or otherwise protect listed plants by:
    - Instructing contract crews on identification of listed plants that may occur within project areas.
    - Maintaining a minimum 50-foot buffer around known plant sites.
    - Limiting spraying to when there is no measurable wind.
    - Using only spot treatments (no broadcast treatments).
    - Using selective equipment (backpack sprayers, hand bottles, wicks) and techniques (cut-stump, hack-and-squirt, direct inject, foliar spot spray).

Herbicide application in natural communities and plantations

- Surveys are not required when work is being conducted by trained BLM botanists and cooperators; however, one year of surveys are required for treatments performed by contract weed crews (excluding direct-inject and hack-and-squirt methods), unless the workers will be accompanied by a trained botanist.
- Follow implementing District's most current NEPA document that covers the use of herbicides to treat vegetation.
- For treatments within or immediately adjacent to plant sites:
    - Work will be supervised by a trained BLM botanist with weed treatment experience.
    - Treat primarily during the dormant season using spot treatments of post-emergent herbicides applied by backpack sprayers, spray bottles, wicks, and other selective equipment and techniques (e.g., cut-stump, hack-and-squirt, direct inject).
    - Use post-emergent herbicides during the growing season only if dormant season treatments are not effective and when there is no measurable wind. Protect listed plants by implementing these types of protective measures:

- Within the treatment site, visibly mark all listed plants or patches with pin flags or similar markers.
- Use only spot treatments (no broadcast treatments).
- Use selective equipment (backpack sprayers, hand bottles, wicks) and techniques (cut-stump, hack-and-squirt, direct inject, foliar spot spray).
- In the case of foliar spot treatments, use spray shields or cover listed plants with tarps or buckets during application.
- Use pre-emergent herbicides only in controlled experiments coordinated with the Service until effects are fully known and full-scale implementation is approved by the Service.
- Monitor the effects of all herbicide use for a period of two growing seasons and report findings annually to the Service.

Gray Wolf –

In an effort to most effectively contribute to the conservation and recovery of the gray wolf (*Canis lupus*), the Service would like the BLM to begin its seasonal restriction within one mile of an active den on April 1st instead of April 30th. The Service believes that extending this restriction to July 15 (as opposed to August 31) would be sufficient to protect the young of the year as they are likely to have left their den sites by then.

Marbled Murrelet –

The Preferred Alternative states there will be no disruption to murrelets. The Service would like to see it state that no disruption would apply to both known and predicted murrelet sites. It could also be stated that predictive murrelet sites would be disrupted from harvest if it was permitted under an option in lieu of intensive surveys for murrelets, when conducting projects in stands < 80 years old.

Other comments to individual components focus on: 1) lack of surveys in Zone 2, 2) lack of adequate protection to murrelet habitat (300 foot buffer), 3) lack of a definition for occupied murrelet site, 4) lack of adequate protection for murrelet critical habitat, and 5) providing an option when not surveying for murrelets that will be neutral or beneficial to murrelets.

1) Lack of surveys in Zone 2

As stated in the murrelet recovery plan, protecting occupied nesting habitat is a priority for recovering the species. Please extend the survey requirements for murrelets into both zones, unless through coordination with the Service another approach is agreed upon (e.g. an emergency situation)

2) Lack of adequate protection to murrelet habitat (300 foot buffer)

The 300 foot buffer should protect stands adjacent to occupied habitat regardless of their age. Additionally the buffer should be applied to unsurveyed potential habitat and unoccupied potential habitat when within the reserve system or murrelet critical habitat. We recommend protection measures that will minimize effects from changes in wind firmness, microclimate and

predation to nesting habitat from treatments within 300 feet of all occupied habitat and unsurveyed potential habitat, and unoccupied habitat when in the reserve system or critical habitat.

3) Lack of a definition for occupied murrelet site

The term "site" may be confusing since it could be a survey site or an occupied site under the Pacific Seabird Group survey protocol for murrelets. We suggest defining an occupied murrelet site as:

When a survey site has an occupancy behavior detected, then all contiguous potential habitats within a ¼ mile (or the current recommended minimum habitat needed to protect nesting murrelets based on the best available science) of the project stands are designated as an occupied murrelet site. Contiguous potential habitats are defined as any potential habitat adjacent to or within ~328 feet (the equivalent of 100 meters) or less of other potential habitat or the project area stands.

4) Lack of protection for murrelet critical habitat

Management direction should be more effective at preventing the loss of Primary Constituent Elements (PCEs). PCEs are needed for the survival and recovery of the murrelet. Currently BLM anticipates that PCEs would be adversely affected by moderate- and low-intensity timber harvest and uneven-aged management.

5) Providing an option when not surveying for murrelets that will be neutral or beneficial to murrelets

The conservation assessment has two options in lieu of intensive surveys for murrelets, when conducting projects in stands < 80 years old. We recommend replacing with option 2 and 3 from the North Coast Level 2 policy on managing murrelet structure in younger stands. Though please correct the typographical error of "canopy closure" to "canopy cover." Additionally the option of "With the advice of the U.S. Fish and Wildlife Service, manage the nesting structure in a manner that does not adversely affect nesting murrelets " would allow flexibility as new information becomes available. We understand the south coast has a different option 2, but that option is not fully protective of murrelet nesting structure and as such is not a viable option when surveys have not been performed to demonstrate the absence of the murrelet.

Fisher –

The fisher (*Martes pennanti*) is currently proposed for listing under the Endangered Species Act. Any discussion about the incidental take of fisher or effects determinations would only apply if the species were listed.

To avoid the take of fisher, the BLM would have to show that fishers are not present in the area or incorporate meaningful conservation measures that would lead one to a determination that the proposed action would not take the species as defined in the Endangered Species Act (Section 3(19)). To reach a "not likely to adversely affect" determination, BLM would need to demonstrate that the effect of the habitat removed is insignificant, discountable, or wholly

beneficial to the species. The Service is still in the process of assessing how best to apply a section 7 analysis to fishers, so it is premature for us to describe specific situations that avoid take or adverse effects. We look forward to working with the BLM on developing a framework to guide section 7 effects determinations. To that end, we recommend looking at the draft interagency fisher conservation strategy (Finley et al. 2011, entire) and the draft Southern Sierra fisher strategy (Spencer et al. 2015, entire) to provide some ideas on which to model future effects analysis approaches.

Finally, by restricting the definition of fisher habitat as young, mature and structurally-complex forest stands in the 11 sub-basins that represent the current range of the species, the BLM may be limiting the effects analysis to these watersheds alone. Because the Service is advocating for reintroducing fishers into areas of the distinct population segment that are not known to be currently occupied the BLM may want to consider that effects to fishers may occur outside of currently known occupied areas.

Greater Sage-Grouse –

General Comments:

Because the BLM is also currently involved in revising an RMP specific to the management of the greater sage grouse (*Centrocercus urophasianus*), we suggest contacting Joan Suther (BLM GRSG RMP revision team lead) for additional language and cross-coordination on sage-grouse issues in this EIS process.

Since sage-grouse once occurred in the Klamath Basin, the Service recommends including a discussion of actions that would be taken to bring about their return (e.g., restoration of populations, etc.).

Specific Comments:

In the first paragraph of the discussion of the sage-grouse population in Oregon, the Service recommends use of Oregon Department of fish and wildlife (ODFW) data. Using ODFW data would more accurately define the population size in Oregon. The current ODFW estimate is less than 20,000 birds for Oregon.

In the first paragraph, we recommend removing the hunting discussion as hunting is not considered a large threat and this discussion does not contribute significantly to the document.

We suggest increasing the discussion of habitat loss as well as conservation options, as these are within the scope of the analysis because the loss and fragmentation of sagebrush habitat is the primary cause of decline of sage-grouse (Fish and Wildlife Service 2013). Starting with a discussion on the current condition of the sagebrush habitat would better lay the foundation and provide context for the planning area. Is having sagebrush the only criteria used to delineate sage-grouse habitat?

In the second paragraph we suggest including additional information about conifer invasion of sage brush habitat, as pines can invade sagebrush as well as juniper. This paragraph would

benefit greatly from the addition of references for livestock grazing claims that are being made (Bob Hopper in the BLM SO would be a good source).

Under Affected Environment and Environmental Effects, we do not believe removing grazing will increase juniper expansion. Please provide citations to support the statements in latter half of this section. We also recommend expanding the discussion on treating invasive species and restoring habitat as an alternative to grazing practices (not suggesting remove grazing here, just that grazing is not the only way to treat invasive species.

Conclusion –

The Service appreciates the opportunity to comment on this draft environmental impact statement for the BLM's plan revisions in western Oregon. The Service considers itself a partner with BLM in finding pragmatic ways for both our agencies to meet our legislatively mandated needs and looks forward to working collaboratively as we move forward. In addition to cooperating on this NEPA effort we will continue to work with your staff on the Conservation Assessment/Conservation Review process to help refine BLM's management direction to best meet the purpose and need statement. As mentioned before, many of the comments contained in the letter serve a purpose for both processes.

If you have any questions regarding this letter or its contents, please contact Brendan White of the Oregon Fish and Wildlife Office at 503-231-6179.

Electronic cc: Richard Hardt, BLM
Eric Greenquist, BLM
Jim Thrailkill, FWS

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From:	Allen, Michael
To:	RMP-Comments@heg-inc.com
Subject:	Fwd: Message from KMBT_601
Date:	Wednesday, July 01, 2015 10:07:53 AM
Attachments:	SKMBT_60115070106210.pdf

Mike Allen
Management and Program Analyst
Resource Management Plans for Western Oregon
Bureau of Land Management
Phone: 503-808-6575

---------- Forwarded message ----------
From: <orsupctr@blm.gov>
Date: 2015-07-01 7:21 GMT-07:00
Subject: Message from KMBT_601
To: m1allen@blm.gov

Congress of the United States

Washington, DC 20510

June 24, 2015

Jerry Perez
State Director
Bureau of Land Management
1220 S.W. 3rd Avenue
Portland, Oregon 97204

Dear Mr. Perez:

We are writing to request a 120-day extension of the public comment period for the Bureau of Land Management's (BLM) draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) for Western Oregon lands. As you know, management of Western Oregon's lands has been a contentious issue, and the public needs adequate time to review the BLM's management proposal.

The current RMP/EIS will affect over 2.5 million acres of public land in Western Oregon and will influence how the BLM manages complex issues like forestry, wildfire, and the concerns of many rural Oregon economies. The current RMP/EIS is intended to guide the BLM's management of Western Oregon's lands for the next 20 years and will play a significant role in economic, recreational, and ecological interests throughout the state. Counties, the public, the State of Oregon, and other stakeholders need time to review the draft RMP/EIS and communicate to the BLM any suggestions for improvement. We are concerned that a 90-day public comment period is insufficient for such a robust process.

Given the importance of this RMP/EIS, its complexity, and the impacts it will have on the State of Oregon, we urge you to work with affected stakeholders to ensure they have sufficient time to read, review, and provide comments on the RMP/EIS. It is our belief that a 120-day extension of the public comment period will help provide certainty to affected parties and will provide greater feedback for your agency as it finalizes the RMP/EIS for Western Oregon.

Thank you very much for your work on behalf of Oregon's public lands and we look forward to working with you as the RMP/EIS for Western Oregon is finalized.

Sincerely,

Ron Wyden
United States Senator

Jeff Merkley
United States Senator

Peter DeFazio
Member of Congress

Kurt Schrader
Member of Congress

Greg Walden
Member of Congress

From:	Allen, Michael
To:	RMP-Comments@heg-inc.com
Subject:	Fwd: Message from KMBT_601
Date:	Wednesday, July 01, 2015 10:08:08 AM
Attachments:	SKMBT_60115070106211.pdf

Mike Allen
Management and Program Analyst
Resource Management Plans for Western Oregon
Bureau of Land Management
Phone: 503-808-6575

---------- Forwarded message ----------
From: <orsupctr@blm.gov>
Date: 2015-07-01 7:21 GMT-07:00
Subject: Message from KMBT_601
To: m1allen@blm.gov

Board of Commissioners

Courthouse, Room 110
225 W. Olive Street
Newport, Oregon 97365
(541) 265-4100
FAX (541) 265-4176

June 18, 2015

Bureau of Land Management
Jerry Perez, State Director
Mark Brown, Planning Project Coordinator
1220 SW 3rd Avenue
Portland, OR 97204

Re: Request for Extension of Time for Public Comment

Dear Jerry and Mark,

The Lincoln County Board of Commissioners are writing to you to request an extension of time for public comment period on the Draft Resource Management Plan/Environmental Impact Statement (Draft RMP/EIS) for Western Oregon.

This RMP/EIS is intended to set course for 20 years of BLM activity on the O&C Lands. Federal law dedicates these lands to management for the benefit of Counties and local communities. Determining the best way to achieve these objectives is too important to hurry due to self-imposed deadlines. The Counties, all elected officials and all members of the public should have ample time to read, digest and comment on the Draft RMP/EIS. We therefore request that the comment deadline be extended to allow submission of comments until November 20, 2015.

Sincerely,

LINCOLN COUNTY BOARD OF COMMISSIONERS

DOUG HUNT, Chair

BILL HALL, Commissioner

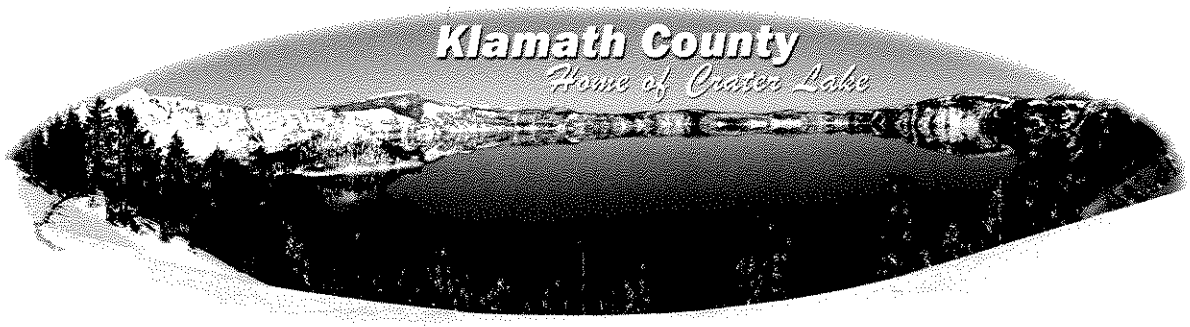
TERRY N. THOMPSON, Commissioner

cc: Coastal Caucus

From:	Allen, Michael
To:	RMP-Comments@heg-inc.com
Subject:	Fwd: Message from KMBT_601
Date:	Wednesday, July 01, 2015 10:08:39 AM
Attachments:	SKMBT_60115070106220.pdf

Mike Allen
Management and Program Analyst
Resource Management Plans for Western Oregon
Bureau of Land Management
Phone: 503-808-6575

---------- Forwarded message ----------
From: <orsupctr@blm.gov>
Date: 2015-07-01 7:22 GMT-07:00
Subject: Message from KMBT_601
To: m1allen@blm.gov



Klamath County Commissioners

Tom Mallams, *Commissioner*
Position One

Kelley Minty Morris, *Commissioner*
Position Two

Jim Bellet, *Commissioner*
Position Three

June 9, 2015

Jerry Perez, State Director
Mark Brown, Planning Project Coordinator
Bureau of Land Management
1220 S.W. 3rd Avenue
Portland, Oregon 97204

Dear Jerry and Mark:

As a Klamath County Commissioner, I'm writing to request an extension of time for the public comment period on the Draft Resource Management Plan/Environmental Impact Statement (Draft RMP/EIS) for Western Oregon.

As you know, the Draft is over 1500 pages long, very complex and it's been difficult to wrap our heads around this. I will not be able to complete adequate comments and suggestions within the current, 90-day comment period and this is an important issue for Klamath County.

This RMP/EIS will theoretically set the course for 20 years of BLM activity on the O&C Lands, that's very meaningful for our county's future. Federal law dedicates these lands to management for the benefit of our local Communities and we need adequate time to address the issues facing these important lands. Determining the best way to achieve these objectives is too important to rush this. Elected officials and all members of the public should have ample time to read, digest and comment on the Draft RMP/EIS. I'd like to see the comment deadline extended to allow submission of comments until November 20, 2015.

Best,
Kelley Minty Morris
Klamath County Commissioner

305 Main Street, Klamath Falls, Oregon 97601
Phone: (541) 883-5100 | Fax: (541) 883-5163 | Email: bocc@klamathcounty.org

From:	Allen, Michael
To:	RMP-Comments@heg-inc.com
Subject:	Fwd: Message from KMBT_601
Date:	Wednesday, July 01, 2015 10:08:53 AM
Attachments:	SKMBT_60115070106230.pdf

Mike Allen
Management and Program Analyst
Resource Management Plans for Western Oregon
Bureau of Land Management
Phone: 503-808-6575

---------- Forwarded message ----------
From: <orsupctr@blm.gov>
Date: 2015-07-01 7:23 GMT-07:00
Subject: Message from KMBT_601
To: m1allen@blm.gov

SENATE REPUBLICAN CAUCUS

OREGON STATE SENATE

June 17, 2015

Jerome Perez
Director for Oregon and Washington
Bureau of Land Management
PO Box 2965
Portland, OR 97208

Dear Director Perez:

As members of the Oregon Legislative Assembly, we have great interest in the Bureau of Land Management Western Oregon Planning Process for O&C lands. The future management of these lands will have a significant impact on the citizens and local governments that we represent.

We have seen the Draft Regional Management Plan/Environmental Impact Statement and understand that the 90-day public comment period is scheduled to end on July 23, 2015. The Legislature is currently in session, and we may be in session until the Constitutional Sine Die, July 11, 2015. The size and complexity of the document will require more attention than we will be able to give to this important issue during the Legislative Session.

We respectfully request an extension of the comment period by 120 days, until November 20, 2015. This will allow us the opportunity to review the document at length and offer our own perspectives on the draft plans and their alternatives. We look forward to your response.

Sincerely,

Senator Ted Ferrioli
Senate Republican Leader

Senator Herman Baertschiger

Office: 900 Court St. NE S-323, Salem, OR 97301 - Phone: (503) 986-1950

SENATE REPUBLICAN CAUCUS

OREGON STATE SENATE

Senator Brian Boquist

Senator Alan Olsen

Senator Fred Girod

Senator Kim Thatcher

Senator Bill Hansell

Senator Chuck Thomsen

Senator Tim Knopp

Senator Doug Whitsett

Senator Jeff Kruse

Senator Jackie Winters

Office: 900 Court St. NE S-323, Salem, OR 97301 - Phone: (503) 986-1950

From:	Allen, Michael
To:	RMP-Comments@heg-inc.com
Subject:	Fwd: Message from KMBT_601
Date:	Wednesday, July 01, 2015 10:09:09 AM
Attachments:	SKMBT_60115070106240.pdf

Mike Allen
Management and Program Analyst
Resource Management Plans for Western Oregon
Bureau of Land Management
Phone: 503-808-6575

---------- Forwarded message ----------
From: <orsupctr@blm.gov>
Date: 2015-07-01 7:24 GMT-07:00
Subject: Message from KMBT_601
To: m1allen@blm.gov

LANE COUNTY BOARD OF COMMISSIONERS

June 23, 2015

Jerry Perez, State Director
Mark Brown, Planning Project Coordinator
Bureau of Land Management
1220 SW 3rd Avenue
Portland, Oregon 97204

Dear Mr. Perez and Mr. Brown:

The Lane County Board of Commissioners asks that you provide an extension of 120 days to the existing 90 day comment period for the Draft Resource Management Plan/Environmental Impact Statement (Draft RMP/EIS) for Western Oregon recently released by the Bureau. Our request is consistent with the past practice of your office, and we note that the 2008 draft RMP/EIS comment period was similarly extended by 120 days.

There are several reasons behind our conclusion that the additional time is justified:

- The Oregon Legislature is in full swing for potentially another four weeks. The policy analysts we utilize to examine new policy and prepare comment for local, state, and federal policies are very busy and perhaps more importantly, Lane County will have a better picture of state support for a myriad of services that are also impacted by the presence or absence of federal funds. A 120 day extension will allow us to provide "new information relevant to the analysis" per the agencies guidance on commenting.

- Lane County is one of 18 counties impacted by how the agency carries out the mandates within the O&C Lands Act of 1937. One of the core outcomes of this federal policy is that the O&C lands contribute to the economic stability of local communities and industries through the value of the timber on these lands, harvested within the principal of sustained yield. It is our belief that the RMP process related to socioeconomic impacts strayed significantly from this mandate. We intend to provide our input, which may include a reasonable alternative not analyzed in the draft, and question both the accuracy of the information in the draft and the methodology and assumptions for the analysis, both per the agencies guidance on commenting. In order to best collaborate with the other O&C counties, however, the agencies expectation for comment in less than 90 days is simply not realistic.

Thank you for considering our request. The irony in needing additional time is tied to our stretched resources due in no small way to declining federal timber harvest. We'd appreciate the agency taking this into consideration as you make your final determination regarding the comment period.

Sincerely,

Jay Bozievich, Chair
Lane County Board of Commissioners

From:	Allen, Michael
To:	RMP-Comments@heg-inc.com
Subject:	Fwd: Message from KMBT_601
Date:	Wednesday, July 01, 2015 10:09:47 AM
Attachments:	SKMBT_60115070106250.pdf

Mike Allen
Management and Program Analyst
Resource Management Plans for Western Oregon
Bureau of Land Management
Phone: 503-808-6575

---------- Forwarded message ----------
From: <orsupctr@blm.gov>
Date: 2015-07-01 7:25 GMT-07:00
Subject: Message from KMBT_601
To: m1allen@blm.gov

930 Mark Brown

Rep. Caddy McKeown, Chair
Sen. Jeff Kruse, Vice Chair
Rep. Deborah Boone
Rep. David Gomberg
Sen. Betsy Johnson
Rep. Wayne Krieger
Sen. Arnie Roblan
Sen. Doug Whitsett

Oregon Coastal Caucus

May 14, 2015

Jerry Perez
Director for Oregon and Washington
Bureau of Land Management
PO Box 2965
Portland, OR 97208

Re: Western Oregon Draft RMP/EIS Public Comment Period Extension

Dear Director Perez:

As members of the Oregon Legislative Assembly's Coastal Caucus, our districts include 13 of the 18 O&C counties. There is great interest in the BLM Western Oregon Planning process for O&C lands in the Legislature as a whole, and particularly among the Coastal Caucus.

We have seen the Draft RMP/EIS you recently published in your planning process and understand that the 90-day public comment period is scheduled to end July 23rd. The Legislature will be in session until at least June 26th and possibly until July 11th. The size and complexity of the document will require more attention than we will be able to give to this important issue during the legislative session.

In order to provide meaningful input, we respectfully request an extension of the comment period of 120 days, until November 20th. This will enable us to evaluate the document and formulate a substantive response.

Sincerely,

Representative Caddy McKeown, Chair

Senator Jeff Kruse, Vice Chair

Rep. Caddy McKeown, Chair
Sen. Jeff Kruse, Vice Chair
Rep. Deborah Boone
Rep. David Gomberg
Sen. Betsy Johnson
Rep. Wayne Krieger
Sen. Arnie Roblan
Sen. Doug Whitsett

Representative Deborah Boone

Senator Betsy Johnson

Representative David Gomberg

Senator Arnie Roblan

Representative Wayne Krieger

Senator Doug Whitsett

Jasmine Benjamin

From: fpaulete@blm.gov on behalf of RMPWO_Comments, BLM_OR <blm_or_rmpwo_comments@blm.gov>
Sent: Saturday, August 22, 2015 11:42 AM
To: RMP-Comments@heg-inc.com
Subject: Fwd: Comments to Draft Resource Management Plan (RMP)/Environmental Impact Statement (EIS) for Western Oregon
Attachments: CIT Observations and Comments.docx

---------- Forwarded message ----------
From: **Brett Kenney** <brettkenney@coquilletribe.org>
Date: Fri, Aug 21, 2015 at 2:34 PM
Subject: Comments to Draft Resource Management Plan (RMP)/Environmental Impact Statement (EIS) for Western Oregon
To: "blm_or_rmpwo_comments@blm.gov" <blm_or_rmpwo_comments@blm.gov>
Cc: George Smith <georgesmith@coquilletribe.org>, Peter Wakeland <peterwakeland@coquilletribe.org>, Colin Beck <ColinBeck@coquilletribe.org>

Attached, please find the Coquille Indian Tribe's comments to the Draft Resource Management Plan (RMP)/Environmental Impact Statement (EIS) for Western Oregon.

Please contact me if you have any questions or comments.

Thank you.

Brett Kenney, Tribal Attorney
Coquille Indian Tribe
brettkenney@coquilletribe.org
(541) 297-2996

BLM DRAFT RMP/EIS

Observations and Comments Submitted by Coquille Indian Tribe

The Coquille Indian Tribe has a unique relationship with surrounding BLM forestlands and the management direction established for these lands. By law (P.L. 104-208) the Bureau of Indian Affairs and Coquille Tribe must manage the Coquille Forest subject to the standards and guidelines of Federal forest plans on adjacent and nearby Federal lands, now and in the future. This means that the applicable[1] federal management direction adopted in the BLM RMP that applies to the Coos Bay District will also apply to the Coquille Forest.

GENERAL OBSERVATIONS AND COMMENTS

Observation: The Purpose and Need described in the BLM draft RMP/EIS is focused on single species management for the Northern Spotted Owl (NSO), with alternatives designating vast acreages of reserves which will not contribute to sustained yield timber production.

Comment: The management direction set forth in the Purpose and Need fails to meet the statutory mandate of the 1937 O&C Act, which requires that O&C lands be managed for permanent forest production under principle of sustained yield. In addition, while generation of revenue for counties is a distinct purpose for management of these lands under the O&C Act, the Purpose and Need did not identify revenue generation as a Planning Objective.

Observation: The BLM draft RMP/EIS allocates no more that 30% of the decision area to the Timber Harvest Land Base in any alternative with the majority of the forested land allocated to structural stage progression in reserves.

Comment: The removal of 70% of the O&C forestland base from sustained yield timber harvest is a significant deviation from the clear statutory mandate of the O&C Act. The BLM's emphasis on reserves as a means to provide NSO and marbled murrelet habitat represents an expansion of the large-block reserve approach used in the Northwest Forest Plan, which has failed to stop the decline of the Northern Spotted Owl. After two decades of this management direction Western Oregon NSO populations continue to decline, and the species may be extirpated from the Coast Range within 35 years. The BLM acknowledges that it has no opportunity, through habitat

[1] The BLM Coos Bay District is comprised of 325,000 acres of varied landscape extending from the sand dunes of the Pacific Ocean to mountains and valleys of the Oregon Coast Range. In contrast, the Coquille Forest is 5,410 acres of commercial forest land located in a small portion of the much larger Coos Bay District. There are many aspects of the BLM/RMP management direction that will not apply to the Coquille Forest or applicability will be in a different context as Indian trust land. Recreation, Roads/Trails, Minerals, Livestock Grazing, Lands with Wilderness Characteristics and Wild Horses are few examples. Also, administrative policies adopted by the BLM regarding additional protections for T&E species which are not required by law would not be applicable to the Coquille Forest.

management in the Coast Range, to reduce risks to the NSO during the next 50 years.[2] While the late successional forest reserve (LSR) strategy has largely failed to reverse the decline in NSO populations, the implementation of this strategy has reduced timber harvest on federal lands in excess of 80% with devastating impacts to rural communities and county governments. This begs the question: *Why does the BLM in this new planning process continue a management direction that has failed in the past and has little chance of achieving its primary purpose of NSO recovery in the future?*

Observation: It appears that the BLM made a decision at the outset of its planning process to continue the strategy of the past two decades, which has been to reserve large blocks of land from sustained yield harvest in an attempt to recover the NSO. This upfront determination assumes that maintaining a network of reserves, removed from sustained-yield management, is necessary to achieve the conservation and recovery of the NSO. While predictive modeling may give credence to this strategy, the actual outcome of two decades of reserve-focused management demonstrates otherwise. The Barred Owl and its aggressive invasion of NSO habitat, not timber harvest, has been identified as the most significant threat to the NSO. There is no assurance that this trend of Barred Owl invasion and NSO population decline will not continue, regardless of how much of the forest the BLM puts off limits to sustained yield harvest.

Comment: The initial decision to designate large areas of reserves in all of the alternatives needlessly narrows the range of alternatives, and precludes the BLM from considering strategies which would result in more active management across the forest landscape. In order to properly analyze a full range of alternatives, the BLM must include alternatives that allow for sustained yield harvest across the landscape while still meeting other statutory mandates.

In addition, a baseline alternative is needed to determine the maximum sustained yield capacity (annual growth less mortality) of the planning area, based on current inventory data. Using the full sustained yield level as a benchmark for the biological productivity of the forest, a more meaningful analysis of the incremental economic impacts of conservation measures could be conducted.

Observation: In a reference analysis contained in the BLM 2008 RMP/EIS, it was determined that BLM lands in the planning area were capable of producing 1.2 billion board feet per year if managed solely for timber production, without regard other Federal laws and regulations.[3] This maximum sustained yield capacity determined in 2008 would be higher now as a result of seven years of accumulated growth, which significantly exceeded harvest levels over the seven-year period. The most aggressive harvest alternative (Alternative C) proposed in this draft RMP/EIS is less than 50% of the sustained yield capacity determined in 2008.

[2] Comparison and Synthesis of BLM Draft RMP/EIS Alternatives. Report prepared for Association of O&C Counties, May 14, 2015.
[3] DEIS, Chapter3 –Page 261.

Comment: The management direction proposed in all alternatives would result in large annual accumulations of growing stock (standing forest inventory) each year. While the impacts of NSO critical habitat that overlay the Harvest Land Base have not been determined for all alternatives, project level ESA consultation will undoubtedly reduce harvest levels even further, resulting in even greater accumulation of growing stock within the planning area.

Dense, overstocked stands with large accumulations of fuels do not create healthy forest conditions. The large, unmanaged blocks of reserves could increase the risk of catastrophic stand replacement events such as wildfires, insect and disease infestation, and wind throw. Climate change could exacerbate these risks. Such events can directly result in significant economic and habitat losses. Control responses and rehabilitation actions can result in additional expense. Rather than removing 70% of the planning area from sustained yield timber harvest by focusing on reserves, the BLM should explore the benefits of active management across the landscape through the analysis of additional alternatives.

SPECIFIC OBSERVATIONS AND COMMENTS PERTAINING TO THE COQUILLE TRIBE AND MANAGEMENT OF THE COQUILLE FOREST

Observation: The Tribe's management goals for the Coquille Forest are distinctly different from the BLM's management goals as described in the draft RMP/EIS. The Coquille Forest is currently designated for timber production under the 1994 NFP, and was designated for timber harvest when Congress transferred those lands to the Coquille Tribe through the Coquille Forest Act. The National Indian Forest Resources Management Act directs that the Coquille Forest be managed under the principle of sustained yield, and in accordance with Tribal objectives. Under the Coquille Forest Resource Management Plan, the dominant use for Coquille Forest lands is sustained yield timber production.

This is because the Coquille Forest was created in partial satisfaction of a Congressional mandate. The Coquille Restoration Act required the Department of the Interior to approve an economic self-sufficiency plan for the Tribe. That plan, ultimately adopted in 1994, called for the restoration of 59,000 acres as a cornerstone of the Tribe's self-determination. The Tribe is located in a remote, heavily forested area, and was to rely substantially on sustainable forest production to provide vital government services to its members.

Despite the plan's clear recommendations, Congress restored only 5,400 acres, and imposed perhaps the most stringent management regime of any Indian trust land forest in the nation. These facts have directly impacted the Tribe's ability to recover from the effects of Termination.

After its restoration the Tribe was recognized as a government, but unlike other governments, it had no land base or other activity to tax. The transfer of the Coquille Forest was made to provide a source of economic benefits and cultural benefits to the Tribe. It was intended to be a place of special significance to the Tribe and a sustainable source of ongoing government revenue. That purpose is reflected in the Coquille Forest Resource Management Plan and continues to this day.

In contrast, the BLM's draft RMP/EIS allocates the majority of the BLM forest land base to late successional reserves (LSR), which will not contribute to sustained yield timber production. It is important to recognize that while there is a statutory nexus between management of BLM Coos Bay District lands and the Coquille Forest, the dominant management direction described in the draft RMP/EIS for BLM lands is vastly different from management goals established for the Coquille Forest.

Comment: Several Government-to-Government meetings have occurred between the Tribe and the BLM to discuss and reach agreement on language to be included in the RMP/EIS and ROD that provides some opportunity to achieve Tribal goals in management of the Coquille Forest as well as meeting the requirements of the Coquille Forest Act. As a result of these discussions, the Tribe has requested the following language be included in Chapter 3-AE&EC –Tribal Interests, under Issue 7—Affected Environment: *Additionally, the Coquille Forest, managed by the Coquille Tribe is "subject to the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands, now and in the future" (Title V of the Oregon Resource Conservation Act of 1996 (Public Law 104-208)). This means that the federal management direction adopted in the BLM RMP that applies to the Coos Bay District will also apply to the Coquille Forest where applicable, in that such management direction will establish the suite of possible management approaches available for the Coquille Forest consistent with the management goals of the Tribe. Because the Coquille Forest is managed by the Bureau of Indian Affairs and the Coquille Indian Tribe for purposes distinct from BLM forest lands, the BLM RMP will not determine which specific land use allocations apply to which specific portions of the Coquille Forest or the rate or extent of timber harvest on the Coquille Forest, and the criteria set forth in the BLM RMP for selecting those land use allocations shall not apply to the Coquille Forest.*

The Coquille Indian Tribe asserts that, as that term is used above, "federal management direction" addresses only those subject matter items that are described in the Standards and Guidelines for Management of Habitat for Late-Successional and Old-Growth Forest Related Species Within the Range of the Northern Spotted Owl. In addition the Tribe asserts that nothing in the above language is intended to diminish or otherwise affect the trust responsibility owed by the Department of the Interior or the Bureau of Land Management to the Tribe regarding the Coquille Forest, or otherwise. Moreover, as we have conveyed in previous correspondence, this trust responsibility applies to the process to change or replace the Coos Bay District resource management plan because doing so directly impacts management of the Coquille Forest.

In addition, the following language has been drafted by the BLM and the Tribe to replace the description of Environmental Effects in Chapter 3-AE&EC –Tribal Interests Issue 7:

As noted above, the Coquille Tribe is required by law to manage the Coquille Forest "subject to the standards and guidelines of Federal forest plans on adjacent or nearby Federal lands, now and in the future" (Title V of the Oregon Resource Conservation Act of 1996 (Public Law 104-208)). The analysis of effects to BLM-administered lands of the alternatives generally reflects how these alternatives would affect resources on the Coquille Forest. For example, if the Coquille Tribe elects to manage a portion of the Coquille Forest as Late-Successional Reserve, their Late-Successional Reserve management would have similar site-specific effects as Late-

Successional Reserve management on BLM-administered lands, because it would follow the same management direction. However, it is not possible for the BLM to identify specific effects of the BLM RMP on the Coquille Tribe stemming from the management of the Coquille Forest. As noted above, the BLM RMP will not determine which specific land use allocations apply to which specific portions of the Coquille Forest or the rate or extent of timber harvest on the Coquille Forest. Absent such information, the BLM cannot ascribe any particular effect of the BLM RMP on the Coquille Tribe as a result of the BLM RMP establishing the suite of possible management approaches available for the Coquille Forest.

Observation: In the preferred Alternative B there is a management objective to maintain early seral habitat conditions for several decades after harvest. This would be accomplished by relying on natural tree regeneration after harvest, or a combination of natural regeneration and planting at lower stocking levels.

Comment: In much of the moist forest area, this practice would make it more difficult and expensive to reestablish productive commercial timber stands under the principles of sustained yield management. In regard to the Coquille Forest, this BLM management objective would be a violation of the management objectives for Indian trust forest land set forth in the National Indian Forest Resources Management Act.[4]

Observation: In Chapter 3-AE&EC—Socioeconomics the BLM concludes that employment effects in Coos, Curry, Douglas and Klamath Counties would be disproportionately negative under Alternatives A and D. Low income cities, Census Designated Places (CDPs) and tribes in these counties would also be vulnerable to these disproportionately negative effects. Under alternative B (preferred alternative), employment effects would be disproportionately negative for Coos and Curry counties, and low income cities, DCPs, and Tribes in these counties would also be vulnerable. Under the preferred alternative (alternative B), the BLM Coos Bay District would have the greatest reduction in harvest volume of all the BLM Districts when compared to the No Action Alternative (50%). Under Alternative D, there would be significant decreases in BLM-related employment in three districts (20% in Roseburg; 48% in Coos Bay; and 18% in Klamath Falls).

Comment: The majority of Coquille Tribal members live in counties that will suffer disproportionately negative employment effects under the proposed alternatives. This will create hardships for Tribal members and increase demand on Tribal government programs to meet the needs of stressed Tribal families.

The significant shift in harvest volume from the BLM's Coos Bay, Roseburg and Medford Districts to the northern districts will have negative impacts on forest and mill infrastructure. This change will adversely affect the Tribe's ability to harvest and market timber from the Coquille Forest and result in decreased timber revenue. Timber revenue accounts for approximately 20% of the Tribe's general fund budget. A decrease in timber revenue and

[4] P.L. 101-630, SEC. 305(b)

increased demand for important Tribal Government services due to negative effects on employment will result in significant adverse impacts to the Coquille Tribal government and Tribal members.

OTHER OBSERVATIONS AND COMMENTS

Observation: The alternatives have a variety of Survey and Protection requirements for the marbled murrelet. These requirements vary from none in Alternatives A and Sub. C, to surveys being required in Zones 1 and 2 and protection of habitat within ½ mile of sites in other alternatives.

Comment: It is recommended that the final preferred alternative and ROD, if based on a system of late successional reserves, have no requirements for marbled murrelet survey and protection. The vast network of late successional reserves would be sufficient for the marbled murrelet.

Observation: Several of the alternatives use stand age as the criteria for designating LSR / Structurally Complex Forest.

Comment: It is recommended that the final preferred alternative and ROD use stand condition based on existing, district specific information as the criteria for designating LSR/ Structurally Complex Forest rather than stand age.

Observation: Riparian reserve total width and inner zone width are established as "one shoe fits all" distances in the alternatives for intermittent, perennial, non-fish bearing and fish bearing streams. No flexibility is provided to deviate from the default widths.

Comment: It is recommended that the final preferred alternative and ROD provide flexibility to designate riparian reserve total width and inner zone width based on specific stream reach conditions where existing data is available or will be obtained in the project development process.

CONCLUSION

The observations and comments described above highlight the Coquille Tribe's concerns and recommendations about the management direction and objectives proposed in the Draft RMP/EIS.

The Tribe has been engaged in the planning process both at the government-to-government level and through the CAAG Tribal working group. At the outset of the planning process the BLM made the upfront determination that the dominant use of the forest lands in the planning area would be the conservation and recovery of threatened and endangered species, primarily the NSO. This determination has resulted in a Plan with the primary management objective of creating and maintaining a network of large blocks of late successional reserves, and the

allocation of less than 30% of the decision area to the Harvest Land Base in any alternative. Throughout the planning process, the Association of O&C counties expressed a high level of concern and asserted that the BLM's Purpose and Need statement was fatally flawed by failing to place sustained-yield timber production as the primary purpose of the planning effort.[5] The Tribe shares this concern.

Once this single species management approach was set by the BLM, it became apparent that no amount of input in the planning process would alter the determined strategy. Therefore, the Tribe's efforts have been directed toward developing language to be included in the RMP/EIS and ROD that provides some opportunity to achieve Tribal goals for management of the Coquille Forest as well as meeting the requirements of the Coquille Forest Act.

[5] DEIS, Summary –Page xxxiii.

August 19, 2015

City of Grants Pass
"Where The Rogue River Runs"

Jerry Perez, State Director
Bureau of Land Management
1220 S.W. 3rd Avenue
Portland, OR 97204

RMP's for Western Oregon
Bureau of Land Management
P.O. Box 2965
Portland, OR 97208

Re: BLM Western Oregon Draft Resource Management Plan

The City of Grants Pass objects to all four of the BLM's proposed alternatives (A, B, C & D) that have been presented for public comment pursuant to the Resource Management Planning Process (RMP).

The City questions BLM's authority to authorize harvest levels below the sustainable yield target that is required by the O&C Act of 1937. All of the RMP's proposed alternatives are below the obligatory sustainable yield target.

Forest management practices directly affect Grants Pass. Josephine County is a region with a high percentage of Oregon's wildfires. These fires have a negative effect on the health of our citizens and businesses. It can be argued that these fires and the intensity/impact have a direct correlation to the lack of coordinated sustainable forest management practices and adherence to required harvest levels. The City is confident that proactive management practices can create fire resilient forests and maintain a healthy community, forest, and program goals.

The City opposes the inclusion of any additional portion of the Rogue River into the National Wild and Scenic Rivers System. The inclusion into the National Wild and Scenic Rivers System could affect scenic easements, private lands, their uses, conditions of residential and other development, vegetative management, and other property rights. The unintended consequences can negatively affect economic development including travel and tourism.

The City encourages BLM to increase its coordination with our region, specifically Josephine County, and we request a further study which should result in the consideration of additional forest management alternatives.

Regards,

Mayor Darin Fowler

CF#15-091

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BOARD OF COMMISSIONERS

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Robert "Bob" Main John Sweet Melissa Cribbins

RMPs for Western Oregon
Bureau of Land Management
PO Box 2965
Portland, Oregon 97208

RE: comments on Draft Resource Management Plan/Environmental Impact Statement

Coos County would like to submit the following comments in opposition of the draft management plan:

1. Almost no consideration was given the 1937 O & C Act which is the dominant reason for the existence of the O&C timber lands.

2. The draft planning documents show the decision area to be 2.5 million acres with growing stock volume estimated between 70 and 80 billion board feet. Annual growth is projected in excess of 1 billion board feet. The allowable sale quantity for alternative B is not acceptable in light of the O&C Act that states that the predominant use is to support the 18 O&C counties. All of the alternatives are too low considering the O&C Act mandate.

3. The BLM Purpose and Need did not recognize the generation of revenue for the Counties as a planning objective despite this explicit purpose under the O&C Act. Even under Alternative C, payments to Counties would only provide 50% of the historic average. Alternative B, the Preferred Alternative, would be just 27% of the historic average. Is the federal government going to mitigate the economic / social losses to the O&C counties?

4. As the non-sustainable thinning of Reserves is depleted payments will decline over time. Payments to counties, if based on fiscal year 2012 timber sales, would provide $11.7 million dollars, 9% of the historic average. Again, is the federal government going to mitigate the economic/social losses to the O&C counties, especially Coos and Curry Counties?

5. Chapter 3, key points page 472 "Using non-market valuation techniques the analysis estimates the 2012 value of recreation on BLM-administered lands at $223 million" yet in another key point "The annual harvest value of timber, compared to $23 million in 2012"
The definition of non-market valuation technique: a non-market good or service is something that is not bought or sold directly. Therefore, a non-market good does not have an observable monetary value. (Definition from Green Health Facts) We want to know how a direct comparison can be made between hard cash dollars and non observable monetary value!

Robert "Bob" Main
Chairman

John Sweet
Commissioner

Melissa Cribbins
Commissioner

CARL WILSON
STATE REPRESENTATIVE
DISTRICT 3

HOUSE OF REPRESENTATIVES

Aug. 20, 2015

Jerome Perez, State Director
Bureau of Land Management
1220 S.W. 3rd Ave.
Portland, OR 97208

By Email and by USPS
(blm_or_rmpwo_comments@blm.gov)

RMPs for Western Oregon
Bureau of Land Management
PO Box 2965
Portland, OR 97208

Re: Inclusion of Rogue River in Wild & Scenic River Program

Dear Director Perez:

I am writing to underscore and reinforce Josephine County Board of Commissioners' objection, as codified in Resolution 2015-034 (attached), to the inclusion of any additional portion of the Rogue River in the National Wild and Scenic Rivers System. In examining BLM's Draft RMP/EIS and suitability study I find no compelling reason to support inclusion of 63 additional miles of well-regulated and protected river frontage to the W&S System.

I am adamantly opposed to any further erosion of private property rights. The complex patterns of property ownership along the middle section of the Rogue River, much of it privately held, ensures that a decision to include that corridor in the Wild & Scenic System will have an adverse effect on land use, development, and maintenance on those lands.

Additionally, limitations on vegetation management practices puts additional acreage at risk for catastrophic wild fire, as has become the regrettable, seasonal norm for our region. We cannot afford to continue to create vulnerable landscapes through mismanagement; managing these interface areas as "wild" would imperil populated portions of our county.

Please give all due consideration to the objections you've received to this plan.

Sincerely,

Representative Carl Wilson

900 Court St NE, Salem, OR 97301 - 503-986-1403
rep.carlwilson@state.or.us