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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

OREGON WILD, an Oregon nonprofit corporation; and **WILDEARTH GUARDIANS**, a New Mexico nonprofit corporation,

Plaintiffs,

v.

DAVID WARNACK, in his official capacity as Supervisor for Willamette National Forest; and **UNITED STATES FOREST SERVICE**, a federal agency,

Defendants.

Case No. 6:24-cv-949

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

(National Environmental Policy Act;
Administrative Procedure Act)

INTRODUCTION

1. The Youngs Rock Rigdon Project (the Project) lies within the Upper Middle Fork Willamette River watershed southeast of Oakridge, Oregon, in the Willamette National Forest. Notable for its diverse plant communities, the area contains a mix of forest stands, including thousands of acres of mature and old-growth forest that provide habitat for the threatened northern spotted owl. These older forests also provide a substantial amount of carbon storage, a natural solution that helps counter anthropogenic climate change.

2. The Project authorizes aggressive commercial logging throughout this diverse area, including in spotted owl critical habitat, riparian reserves, and mature and old-growth forests. Hundreds of acres are slated to be clearcut, while many mature and old-growth stands will lose over half their existing canopy cover.

3. Plaintiffs Oregon Wild and WildEarth Guardians challenge the Youngs Rock Rigdon Record of Decision (ROD) and Final Environmental Impact Statement (FEIS) for violations of the National Environmental Policy Act (NEPA) and the Administrative Procedure Act (APA).

4. When the U.S. Forest Service (Forest Service) proposed the Project in 2019, Plaintiffs supported several of the agency's restoration goals for this special landscape, including floodplain and meadow restoration, variable thinning of young plantations, road decommissioning, and the reintroduction of fire as a management tool.

5. Unfortunately, and to the detriment of the area as a whole, the Forest Service ultimately authorized aggressive commercial logging that undermines ecological and societal values. The final Project does not strike an appropriate balance between the agency's stated goals of producing timber and reducing hazardous fuels and the need to maintain desperately needed

habitat for imperiled species, retain existing stored carbon and facilitate future storage, and protect mature and old-growth forests.

6. As authorized, the Project will result in the removal of 55 million board feet of trees (the equivalent of 11,000 full logging trucks), construction of 7.5 miles of new roads (plus over 100 miles of “haul route road maintenance”), and commercial logging of 2,242 acres—including 453 acres of “regeneration” logging (commonly known as “clearcutting”) and heavy commercial thinning in 1,053 acres of older forests that would remove over half of the existing trees. The Project will completely remove roughly 2,000 acres of suitable spotted owl habitat and 467 acres of dispersal habitat and degrade another 1,000 acres of suitable habitat.

7. To reach its flawed decision, the Forest Service ignored reasonable alternatives for the Project that would better harmonize competing resource objectives and conservation values.

8. The Forest Service also failed to take a hard look at the Project’s impacts on carbon storage, greenhouse gas emissions, and climate change, and ignored contrary scientific viewpoints and Plaintiffs’ extensive comments on this issue. The Forest Service also failed to take a hard look at the Project’s impacts on increased fire risks associated with logging, impacts from new road construction, impacts on mature and old-growth forests, and impacts to spotted owl habitat.

9. Plaintiffs seek a declaration that Defendants violated NEPA and its implementing regulations by (a) failing to consider reasonable alternatives for the Project, and (b) failing to take a “hard look” at the Project’s environmental impacts. Plaintiffs further seek to enjoin Defendants from implementing any road-building or commercial logging aspects of the Project unless and until the violations of law set forth herein have been corrected. The requested relief is necessary to preserve the status quo, to prevent unlawful agency action, and to forestall irreparable injury to Plaintiffs and the environment.

JURISDICTION

10. Jurisdiction is proper in this Court pursuant to 28 U.S.C. §§ 1331 (federal question) and 1346 (United States as defendant).

11. This cause of action arises under the laws of the United States, including the APA, 5 U.S.C. §§ 701–706, and NEPA, 42 U.S.C. §§ 4321–4370j. An actual, justiciable controversy exists between Plaintiffs and Defendants, and the requested relief is therefore proper under 28 U.S.C. §§ 2201–2102 (declaratory and injunctive relief).

12. Plaintiffs exhausted available administrative remedies by submitting timely comments on the Draft Environmental Impact Statement (DEIS) and timely objections to the FEIS and draft ROD for the Project. The challenged actions or failures to act are subject to this Court’s review under 5 U.S.C. §§ 702–706.

VENUE

13. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because all or a substantial part of the events or omissions giving rise to the claims herein occurred within this judicial district, the public lands and resources at issue are located in this district, and all Parties maintain offices in this district.

14. The Youngs Rock Rigdon Project is located in the Willamette National Forest’s Middle Fork Ranger District in Lane County, Oregon. Willamette National Forest Supervisor David Warnack, who authorized the challenged decision, maintains an office in Lane County, Oregon. Pursuant to Local Rule 3-2(b), this case is thus properly filed in the Court’s Eugene Division in Eugene, Oregon.

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PARTIES

15. Plaintiff OREGON WILD is a nonprofit organization with approximately 20,000 members and supporters throughout Oregon and the Pacific Northwest. Oregon Wild is headquartered in Portland, Oregon, with satellite offices in Eugene, Bend, and Enterprise, Oregon. Oregon Wild's mission is to protect and restore Oregon's wildlands, wildlife, and waters as an enduring legacy for future generations. Oregon Wild's wilderness, old-growth forest, and clean rivers/watersheds programs protect pristine drinking water, unparalleled recreation opportunities, and fish and wildlife habitat across Oregon, as well as help stabilize the global climate.

16. Plaintiff WILDEARTH GUARDIANS is a nonprofit organization dedicated to protecting and restoring the wildlife, wild places, wild rivers, and health of the American West. Headquartered in New Mexico, WildEarth Guardians has over 190,000 members and supporters across the western states and maintains an office in Portland, Oregon.

17. Plaintiffs' members, supporters, and staff regularly visit the Youngs Rock Rigdon Project area and surrounding federal lands. Plaintiffs' members, supporters, and staff hike; camp; observe and photograph scenery, habitat, and wildlife; and engage in other vocational, scientific, and recreational activities in and around the Project area. They rely on the mature and old-growth trees within the Project area for carbon storage and other ecosystem services. Plaintiffs' members, supporters, and staff derive recreational, inspirational, educational, and aesthetic benefit from their frequent activities within the Project area and surrounding forested lands and waters, which they intend to continue pursuing on an ongoing basis.

18. Plaintiffs' members, supporters, and staff use and enjoy the Youngs Rock Rigdon Project area for its natural beauty and the host of recreational, educational, and aesthetic values it provides, and their enjoyment of the area will be significantly diminished if the Project is

implemented as planned. The intensive logging authorized by the Project will disrupt the area's natural character. It will hinder the forest's ability to sequester carbon and provide the other ecosystem services on which Plaintiffs' members, supporters, and staff rely. And logging will decrease the likelihood that Plaintiffs' members, supporters, and staff will be able to observe wildlife—including the threatened northern spotted owl and its prey species—in the Project area.

19. Plaintiffs and their members, supporters, and staff will sustain injury to aesthetic, recreational, and educational interests if the Forest Service implements the Project as approved.

20. Plaintiffs seek to ensure that the Forest Service faithfully and fully implements and complies with federal laws in managing the natural resources of the Project area and Willamette National Forest as a means of protecting the interests of their members, supporters, and staff. Plaintiffs frequently communicate with Forest personnel regarding planned and ongoing projects, comment on resource management decisions, and have organizational interests in the proper and lawful management of public lands and protected species within the Forest.

21. Unless this Court grants the requested relief, Plaintiffs and their members, supporters, and staff will be irreparably harmed by implementation of the logging prescribed for the Youngs Rock Rigdon Project.

22. Defendant UNITED STATES FOREST SERVICE is an agency of the United States charged with managing the Willamette National Forest and other units of the National Forest System in accordance and compliance with federal laws and regulations. The Forest Service developed and authorized the Youngs Rock Rigdon Project challenged in this action.

23. Defendant DAVID WARNACK is sued in his official capacity as Supervisor of Willamette National Forest. Mr. Warnack signed the ROD authorizing implementation of the Youngs Rock Rigdon Project on behalf of the Forest Service.

STATEMENT OF LAW

National Environmental Policy Act (NEPA)

24. Congress enacted NEPA to “declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; [and] to enrich the understanding of the ecological systems and natural resources important to the nation[.]” 42 U.S.C. § 4321.

25. NEPA’s primary purposes are to ensure fully-informed decision-making by federal agencies and to provide for informed public participation in environmental analyses and decision-making processes. 40 C.F.R. § 1500.1(b), (c).¹

26. To accomplish these purposes, NEPA requires federal agencies to prepare a “detailed statement” for all “major federal actions significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). Commonly known as an Environmental Impact Statement (EIS), this document must describe, *inter alia*, the adverse environmental impacts of, and alternatives to, the proposed action. *Id.*

27. An EIS must provide the decisionmaker and the public with adequate information, evidence, and analysis to fully assess the potential impacts of the proposed action before a decision is made. 40 C.F.R. § 1500.1(b). The agency must therefore integrate the NEPA process with other planning at the earliest possible time to ensure that planning and decisions reflect environmental values, as Congress intended. *Id.* § 1501.2.

¹ The Council of Environmental Quality (CEQ) promulgates uniform regulations implementing NEPA that are binding on all federal agencies. 42 U.S.C. § 4342; 40 C.F.R. §§ 1500–1508.8. This complaint cites to the 2019 version of these regulations, on which the Forest Service relied in developing and approving the Project.

28. An EIS must specify the underlying purpose and need for the proposed action. 40 C.F.R. § 1502.13. The purpose and need must be reasonable, based on the information before the agency and measured against the agency's statutory mandates. An agency may not define the purpose and need for a proposed action in unreasonably narrow terms such that only one foreordained alternative could meet them.

29. The alternatives analysis is "the heart of the environmental impact statement." *Id.* § 1502.14. This section of an EIS must "provid[e] a clear basis for choice among options by the decisionmaker and the public." *Id.*

30. An EIS must "[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated." *Id.* The reasonableness of alternatives is measured against the project's purpose and need and the agency's statutory obligations.

31. The existence of a viable but unexamined alternative renders an EIS inadequate.

32. Within an EIS, an agency must also take a "hard look" at the direct, indirect, and cumulative environmental impacts of a proposed action. *Id.* §§ 1502.16, 1508.7–8. Direct impacts are caused by the action and occur at the same time and place. *Id.* § 1508.8(a). Indirect impacts are caused by the action but occur later in time or are farther removed in distance. *Id.* § 1508.8(b). Cumulative impacts are the impacts of the proposed action, as well as impacts from other past, present, and reasonably foreseeable future actions, both federal and non-federal. *Id.* § 1508.7. "Cumulative impacts can result from individually minor but collectively significant actions." *Id.*

33. An agency must ensure the professional and scientific integrity of its NEPA analysis; it cannot gloss over responsible opposing views or evidence contrary to its conclusions. *Id.* §§ 1502.9, 1502.24. To that end, the agency must meaningfully respond to issues raised in

public comments, which must be attached to the EIS. 40 C.F.R. §§ 1502.9(b), 1503.4. Agencies must “[e]ncourage and facilitate public involvement in decisions which affect the quality of the human environment.” *Id.* § 1500.2(d).

Endangered Species Act (ESA)

34. Congress enacted the ESA, in part, to provide a “means whereby the ecosystems upon which endangered and threatened species depend may be conserved,” and “a program for the conservation of such endangered and threatened species.” 16 U.S.C. § 1531(b). The U.S. Fish and Wildlife Service (FWS) is charged with administering the ESA with respect to terrestrial wildlife, including threatened and endangered bird species.

35. A “threatened” species is likely to become endangered—in danger of extinction—throughout all or a significant portion of its range “within the foreseeable future.” 16 U.S.C. §§ 1532(6), (20), 1533(a)(1)(A)–(E); 50 C.F.R. § 402.01(b); 50 C.F.R. §§ 17.11, 17.12. Threatened species generally receive the same protections as endangered species. 16 U.S.C. § 1533(d); 50 C.F.R. § 17.31(a).

36. Of equal or greater importance to designating a species as threatened or endangered, the FWS must also designate “critical habitat” for each listed species. 16 U.S.C. § 1533(a)(3)(A)(i). “Critical habitat” means “the specific areas . . . on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection.” *Id.* § 1532(5)(A)(i).

37. The ESA imposes a substantive duty on each federal agency to ensure “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” designated critical habitat for such species. *Id.* § 1536(a)(2).

38. When a proposed action is likely to adversely affect a listed species or critical habitat, the action agency must formally consult with the FWS to determine whether the proposed action is likely to result in jeopardy to the species or destroy or adversely modify critical habitat. 16 U.S.C. § 1536(b)(3)(A); 50 C.F.R. § 402.14. At the end of formal consultation, the FWS shall explain its jeopardy determination in a biological opinion (BiOp) and set forth certain mandatory terms and conditions with which the action agency must comply to avoid liability under the ESA. 16 U.S.C. § 1536(b)(3)(A), (4); 50 C.F.R. § 402.14(h), (i).

39. Agencies must “use the best scientific and commercial data available” in their analyses. 16 U.S.C. § 1536(a)(2); 50 C.F.R. § 402.14(g)(8). Further, an action agency must ensure that its reliance on a BiOp is not arbitrary or capricious; it may not satisfy its ESA duties—or its NEPA duties—through reliance on an inaccurate or outdated BiOp.

Administrative Procedure Act (APA)

40. The APA confers a right of judicial review on any person adversely affected by final agency action. 5 U.S.C. §§ 702, 704.

41. Upon review, a court shall hold unlawful and set aside agency actions found to be arbitrary, capricious, an abuse of discretion, otherwise not in accordance with law, or without observance of procedure required by law. *Id.* § 706(2).

Executive Order 13990

42. On his first day in office, President Biden issued Executive Order (EO) 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, affirming that federal agencies must “capture the full costs of greenhouse gas emissions as accurately as possible, including by taking global damages into account.” 86 Fed. Reg. 7,037, Sec. 5 (Jan. 20, 2021). Calculating and disclosing the “accurate social cost is essential for agencies to

accurately determine the social benefits of reducing greenhouse gas emissions when conducting cost-benefit analyses of regulatory and other actions.” 86 Fed. Reg. 7,037, Sec. 5.

43. To assist federal agencies in implementing EO 13990, an Interagency Working Group issued interim estimates of the social cost of carbon (SCC) in February of 2021. As the Group noted, agencies had been regularly incorporating the social cost of carbon into their cost-benefit analyses since 2008. EO 13990 merely formalized the practice, and the interim estimates were simply updates to the previously used formulae, reflecting the immediate need to have an operational SCC for agencies to apply.

44. On January 9, 2023, the CEQ issued interim guidance for analyzing greenhouse gas emissions under NEPA. 88 Fed. Reg. 1,196 (Jan. 9, 2023). Effective immediately, the CEQ directed agencies to provide additional context for greenhouse gas emissions in their NEPA analyses, “including through the use of the best available social cost of [greenhouse gas] estimates,” in order to “help evaluate the significance of an action’s climate change effects[] and better understand the tradeoffs associated with an action and its alternatives.” *Id.* at 1,198.

Executive Order 14072

45. On Earth Day 2022, President Biden issued EO 14072, *Strengthening the Nation’s Forests, Communities, and Local Economies*, which emphasized the important of mature and old-growth forests on Federal lands for community resilience, carbon sequestration, and biodiversity. *See* 87 Fed. Reg. 24,851 (April 22, 2022). EO 14072 thus articulated a federal policy of “conserv[ing] America’s mature and old-growth forests on Federal lands.” *Id.*

46. To effectuate this policy, the EO directed the Forest Service and Bureau of Land Management to “define, identify, and complete an inventory of old-growth and mature forests on Federal lands” and to make the inventory publicly available. *Id.* at 24,852.

47. In April of 2023, the agencies released working definitions and an initial inventory of mature and old-growth forests,² along with a coarse mapping tool that identified high levels of mature and old-growth in the Youngs Rock Rigdon Project area.

STATEMENT OF FACTS

Mature and Old Growth Forests

48. Old-growth forests are dynamic systems distinguished by old trees and related structural attributes, which may include large trees, accumulations of large dead trees and downed logs, extent of canopy cover, number of canopy layers, and species composition. In addition to their ecological attributes, old-growth forests are distinguished by their ecosystem services and social, cultural, and economic values.

49. Before developing into “old-growth,” forest stands pass through the “mature” successional stage, generally defined as stands at least 80 years old. Mature stands contain some but not all old-growth structural attributes. They typically have an abundance of large trees, a diversity of tree sizes, horizontal canopy openings or patchiness, an accumulation of fallen and standing dead trees, multiple canopy layers, or a combination of these attributes.

50. Both mature and old-growth forests offer high levels of biological diversity, actual and potential carbon sequestration, wildlife and fisheries habitat, soil productivity, water quality, flood and erosion control, recreation opportunities, and aesthetic beauty.

51. The large, old trees that typify mature and old-growth stands in the Willamette National Forest remove large amounts of carbon from the atmosphere and are capable of storing

² The Forest Service and Bureau of Land Management issued a revised version of this document dated April 2024, available at https://www.fs.usda.gov/sites/default/files/fs_media/fs_document/Mature-and-Old-Growth-Forests.pdf.

such carbon for hundreds of years. Even small increases in these large trees' diameters equate to substantial amounts of stored carbon, particularly when these annual additions are accumulated over time and across landscapes. For these reasons, allowing large mature and old-growth trees to continue to grow offers a durable natural climate solution in the face of ongoing greenhouse gas emissions from human activities.

52. Their greater moisture content, shade cover, humidity, cooler temperatures, and lower wind speeds also make mature and old-growth stands more resistant to wildfire than younger stands. As such, mature and old-growth forest can also offer valuable refugia during and after wildfire events. In addition, older trees' thicker bark, self-pruning of lower branches, and higher crowns afford them greater resilience when they interact with fire, with higher likelihoods of survival and recovery.

53. Mature and old-growth stands and trees also provide high-value habitat for many rare and imperiled species, including northern spotted owls, red tree voles, Pacific fishers, martens, and others. Mature and old-growth stands with relatively high canopy cover and deep roots create moister, cooler microclimates, offering climate refugia for these species as climate change brings drier, warmer conditions across their ranges.

54. Portions of the old forests that currently exist are lost each year to fire, logging, and other causes, so there must be a continual recruitment of mature forest into the old-growth cohort.

55. Since the arrival of Europeans, mature and old-growth forests have declined significantly and become heavily fragmented in the Pacific Northwest due to land-use conversion, development, and extensive logging and road-building. The loss of these forests has had severe negative consequences for old-growth-dependent species such as the northern spotted owl, as there is a significant and persistent shortage of old-growth habitat throughout the owl's range.

Northern Spotted Owls and Their Habitat

56. The northern spotted owl (*Strix occidentalis caurina*) lives in structurally complex mature and old-growth forests from southern British Columbia south through Washington, Oregon, and northern California. [“D]ue to loss and adverse modification of spotted owl habitat as a result of timber harvesting,” as well as the inadequacy of existing regulatory mechanisms to conserve the species, the FWS listed the northern spotted owl as “threatened” on June 26, 1990. 55 Fed. Reg. 26,114 (June 26, 1990) (codified at 50 C.F.R. § 17.11(h)). The rate of population decline has accelerated in recent years, and in 2023 the FWS acknowledged that reclassification of the owl as endangered was warranted, indicating that the species is at significant risk of total extinction in the foreseeable future. 88 Fed. Reg. 41,560, 41,578 (June 27, 2023); U.S. Fish & Wildlife Serv., Species Assessment and Listing Priority Assignment Form: *Strix occidentalis caurina* 9 (Aug. 12, 2022) (Species Assessment).

57. As the owl requires old-growth habitat, the continuing loss of older forests has had a severely adverse impact on the species. Most spotted owls remain resident on their home range throughout the year; therefore, these homes ranges must provide all the habitat components needed for the survival and successful reproduction of breeding owl pairs. Owls display high site fidelity and will inhabit the same territory for many years.

58. Designated critical owl habitat is broadly categorized as either: (1) nesting and roosting habitat; (2) foraging habitat; or (3) dispersal habitat. 77 Fed. Reg. 71,876, 71,906–07 (Dec. 4, 2012).

59. “Nesting and roosting habitat” consists of forest stands with 60–90% canopy cover; a high basal area (over 240 square feet per acre); and multilayered, multispecies canopies with

large-diameter overstory trees, large live trees with deformities, large snags and fallen trees, and sufficient space underneath the canopy for spotted owls to fly. 77 Fed Reg. at 71,906–07.

60. Nesting and roosting habitat also provides “foraging habitat.” *Id.* at 71,906–07. Spotted owls in the Willamette National Forest typically forage in old stands, but may also use younger stands with some old-growth structural characteristics—*e.g.*, large trees, multi-layered canopy, or large snags and fallen trees—as foraging habitat. *Id.* at 71,905–06. Foraging activity is generally associated with high densities of large trees and high basal density per acre, and typically requires at least 40% canopy cover. *Id.* at 71,905–07.

61. Northern spotted owls also require “dispersal habitat,” which supports the “transience and colonization phase” as juveniles move away from their parents post-fledging, dispersing up to 17 miles from their natal sites. *Id.* at 71,906.

62. Dispersal habitat “may currently be marginal or unsuitable for nesting, roosting, or foraging,” but “dispersal success is highest when [dispersing owls] move through forests that have the characteristics of nesting-roosting and foraging habitats.” *Id.* Survival rates decrease when owls must disperse through forests without old-growth characteristics.

63. Dispersal habitat “provides an important linkage function among blocks of nesting habitat both locally and over the owl’s range that is essential to its conservation.” *Id.* “Population growth can only occur if there is adequate habitat in an appropriate configuration to allow for the dispersal of owls across the landscape.” *Id.*

64. In 2011, the FWS released a Revised Recovery Plan that “recommends retaining more occupied spotted owl sites and unoccupied, high value spotted owl habitat on all lands.” U.S. Fish & Wildlife Serv., Revised Recovery Plan for the Northern Spotted Owl at I-9 (June 28, 2011) (Recovery Plan).

65. The Recovery Plan sets forth “Recovery Actions,” including “[c]onserve spotted owl sites and high value spotted owl habitat to provide additional demographic support to the spotted owl population.” Recovery Plan at III-43. Land managers should “prioritize known and historic spotted owl sites for conservation and/or maintenance of existing levels of habitat[.]” *Id.* at III-44.

66. The Recovery Plan further instructs land managers to “maintain and restore” high-quality spotted owl habitat, *i.e.*, “older and more structurally complex” forests. *Id.* at III-67. These high-quality habitat patches are to be protected on all federal land. Even small patches can be important to a local population, and typically “require project-level analysis and field verification to identify.” *Id.*

67. The FWS additionally recommends that in northern spotted owl critical habitat, land managers should “[f]ocus active management [*e.g.*, thinning and prescribed burning] in younger forest, lower quality owl habitat, or where ecological conditions are most departed from the natural or desired range of variability.” 77 Fed. Reg. at 71,882. If a proposed project may have “more than an insignificant or discountable impact” on the physical and biological features owls require for their basic life-history functions, then the project is “likely to adversely affect northern spotted owl critical habitat[.]” *Id.* at 71,940.

68. In addition to ongoing habitat loss, the invasive barred owl has emerged as major threat to the spotted owl’s recovery and survival. *Id.* at 71,878, 71,885. Both species are territorial and compete for similar mature and old-growth forest habitat—which is in increasingly short supply. Barred owls displace spotted owls and compete with them for habitat and resources. Loss of suitable owl habitat through logging intensifies competition by reducing the total amount of

resources available and by increasing the likelihood and frequency of competitive interactions between the two species. 77 Fed. Reg. at 71,878, 71,885.

69. Conversely, the impacts of barred owl competition can be mitigated to an extent by conserving suitable spotted owl habitat. See J. David Wiens et al., *Invader Removal Triggers Competitive Release in a Threatened Avian Predator*, 118 Proc. Nat'l Acad. of Sci. 31 (2021), <https://www.pnas.org/content/pnas/118/31/e2102859118.full.pdf>. Researchers emphasize “the importance of maintaining [spotted owl] habitat on the landscape, even if it is unoccupied,” as it allows for recolonization by spotted owls once barred owls are removed and facilitates connectivity between occupied areas. See Alan B. Franklin et al., *Range-Wide Declines of Northern Spotted Owl Populations in the Pacific Northwest: A Meta-Analysis*, 259 Biological Conservation (2021), https://www.fs.usda.gov/pnw/pubs/journals/pnw_2021_franklin001.pdf. The dramatic and previously unforeseen impacts of barred owl expansion thus increase the urgency of the need to conserve and expand old-growth habitat.

70. Due to the ongoing threat of habitat loss and increasing pressures from barred owls, the outlook for the northern spotted owl is grim. In 2016, scientists estimated that the total owl population had declined by almost four percent annually since 1985. Kate Dugger et al., *The Effects of Habitat, Climate, and Barred Owls on Long-term Demography of Northern Spotted Owls*, 118 Condor: Ornithological Applications 57, 70 (2016), https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=2801&context=icwdm_usdanwrc. This population decline has only accelerated since that time. See Franklin et al.

71. In 2020, the FWS found that the threats to the spotted owl “are of such imminence, intensity, and magnitude to indicate that the northern spotted owl is now in danger of extinction throughout all of its range.” 85 Fed. Reg. 81,144, 81,146 (Dec. 15, 2020).

72. In 2020, the FWS also released a “programmatic biological opinion” (2020 BiOp) which purported to analyze the total impact of all “Ongoing Timber Harvest and Routine Activities on the Willamette National Forest” on the spotted owl.

73. The 2020 BiOp, by its nature, did not analyze the effects of any specific projects. Instead, it set very broad parameters for expected impacts to spotted owls across the entire Forest over the course of many years, and described the general significance of such impacts to the species as whole. It also set specific caps on the amount of nesting/roosting, foraging, and dispersal habitat that could permissibly be removed or degraded over a 10-year period. The FWS determined that this level of habitat destruction through management activities would not jeopardize the species.

74. In 2020, however, unexpectedly large and severe wildfires impacted tens of thousands of acres of spotted owl habitat across Oregon, including in the Forest. Based on these changed circumstances and new information on the species’ status, the FWS determined that the 2020 BiOp was no longer valid. It reinitiated formal consultation with the Forest Service, culminating in the 2023 “Biological Opinion on Willamette National Forest Timber Harvest and Routine Activities” (2023 BiOp), which superseded the 2020 BiOp.

75. The 2023 BiOp made several changes, including substantially lowering the number of habitat acres that could permissibly be removed or downgraded by management activities. The 2023 BiOp also expanded and updated its discussion of ongoing impacts from barred owls and incorporated new research and information on population trends and outlook.

76. Notably, the 2023 BiOp added repeated warnings that spotted owls were at high risk of extinction due to competition with barred owls, exacerbated by habitat loss. It stressed the importance of preserving unoccupied suitable habitat, dispersal habitat, and “older forest connectivity corridors” for the increasing numbers of spotted owls displaced by barred owls.

77. Under the programmatic BiOps, however, the Forest Service has continued to approve large-scale logging projects harmful to the northern spotted owl—including the Youngs Rock Rigdon Project at issue here.

The Youngs Rock Rigdon Project

78. The Youngs Rock Rigdon Project lies within the Upper Middle Fork Willamette River watershed in the Willamette National Forest in an area popular for recreation, including camping, hiking, fishing, bird-watching, and viewing scenery.

79. The Project area is a unique portion of the Willamette National Forest that extends across lower and higher elevations and includes both drier and moist forest types, as well as two designated areas of special botanical and cultural interest. The areas now slated for logging encompass significant areas of mature and old-growth forest, including “natural stands” up to 198 years old.³

80. There are 13,875 acres of spotted owl critical habitat, as well as 20 known owl sites, within the Project area, which supports a diverse range of old-growth-dependent species.

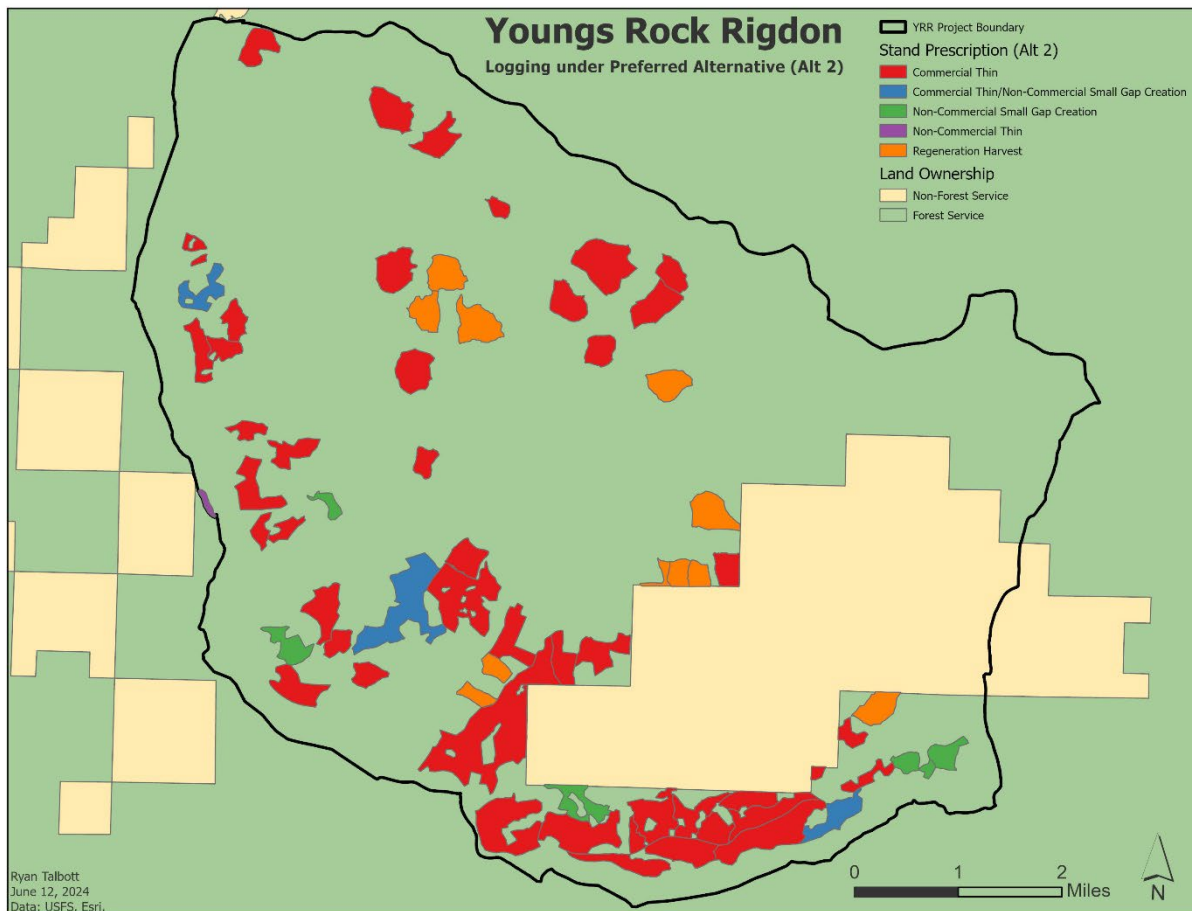
81. Within this area, the Youngs Rock Rigdon Project contemplates intensive logging and other management activities on roughly 6,500 acres.

82. The Forest Service asserts that the Project is needed to improve stand and landscape diversity, structure, and resiliency; strategically reduce hazardous fuels; sustainably manage the existing trail system and dispersed recreation while minimizing impacts to natural resources; identify a sustainable road system; and provide a sustainable supply of forest products through commercial logging.

³ The natural stands are 92 to 198 years old. As “mature” forest is typically defined as stands of at least 80 years old, the term “natural stands” as used in the Youngs Rock Rigdon FEIS and ROD denotes mature and old-growth forests.

83. To accomplish these goals, the Forest Service has authorized 2,242 acres of commercial logging, including 1,053 acres in mature and old-growth stands, 273 acres in riparian reserves, and 453 acres of clearcuts in younger, previously logged stands⁴ in addition to various noncommercial restoration activities.

Fig. 1 – Map of Logging Unit Prescriptions for Youngs Rock Rigdon Project Alternative 2

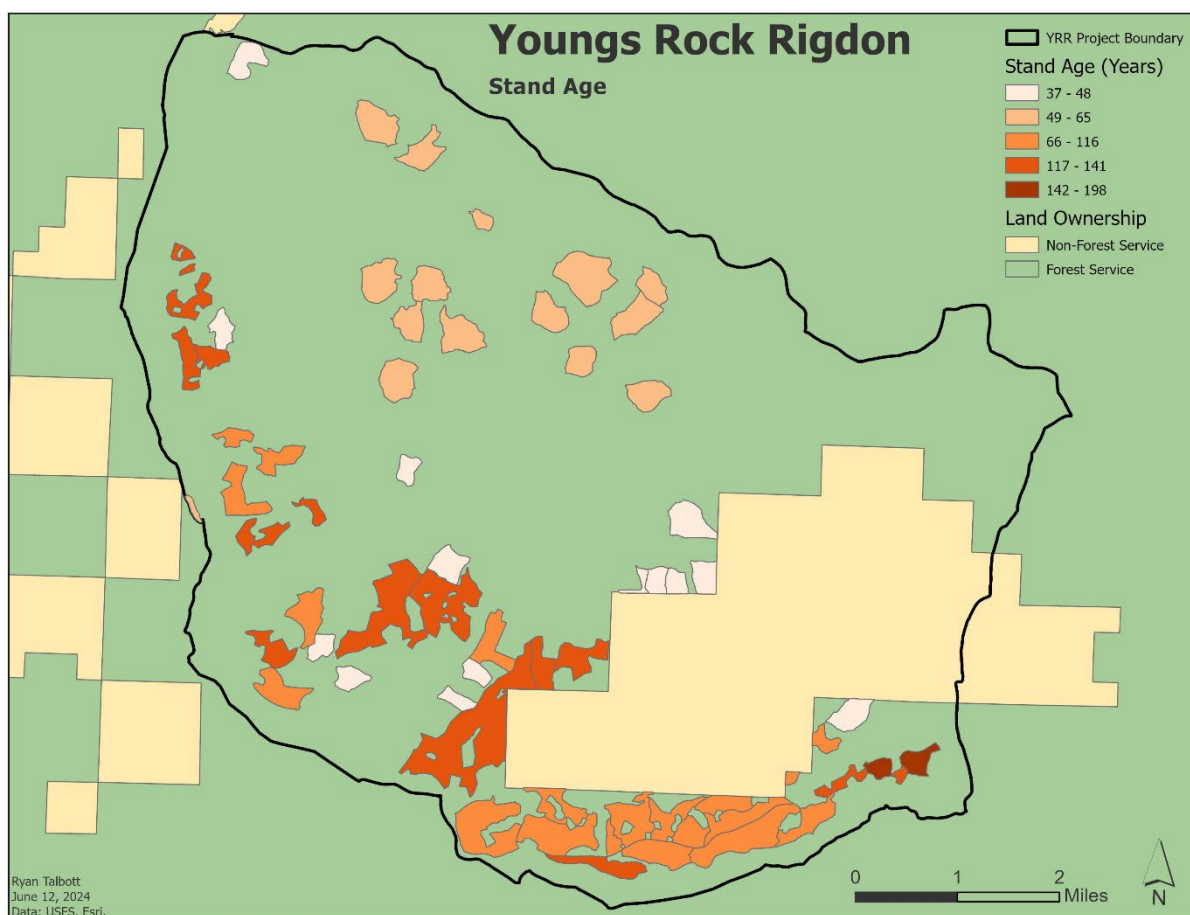


84. To facilitate this logging, the Forest Service intends to construct 7.5 miles of new roads in the Project area.

⁴ The Forest Service deploys the euphemistic label “regeneration harvest,” but uses the terms interchangeably elsewhere in the FEIS.

85. The Project authorizes thinning in 39 mature and old-growth “natural stands.” These stands currently have an average canopy cover of 75% and range in age from 92 to 198 years, with an average of 121 years old.

Fig. 2 – Map of Logging Unit Stand Ages within Youngs Rock Rigdon Project



86. These natural stands would be aggressively thinned to just 30 trees per acre, altering moist microhabitat conditions needed by rare species and reducing canopy cover to just 28% in some instances.

87. The Project also targets approximately 29 “managed stands” for commercial logging. These stands are previously clear-cut areas that were densely replanted, ranging in age

from 37 to 65 years old, with an average age of 51. Canopy cover in these stands currently averages around 76%.

88. Canopy cover in these managed stands would be reduced to as low as 21% in areas slated for clearcutting.

89. Notably, the clearcutting prescription in managed stands is only slightly more drastic than the level of canopy reduction that would occur through “thinning” (down to as low as 28%) in natural stands, an indication of the aggressiveness of the prescriptions the Forest Service aims to apply in mature and old-growth forest.

90. On June 17, 2019, the Forest Service issued a public scoping notice for the Youngs Rock Rigdon Project.

91. On July 9, 2021, the Forest Service released a draft EIS (DEIS) for the Project.

92. Plaintiffs provided timely comments at each stage of the Youngs Rock Rigdon Project development.

93. In their comments, Plaintiffs first commended the Forest Service for the Project’s proposed meadow and floodplain restoration, road decommissioning, recreation enhancements, variable thinning of dense young plantations, and noncommercial understory thinning along roads.

94. However, Plaintiffs cautioned that all of these beneficial aspects of the Project were overshadowed by unnecessarily aggressive logging in mature and old-growth stands, clearcutting in managed stands, and multiple miles of new road construction. They raised serious questions related to, *inter alia*, carbon and climate, mature and old-growth forests, fire and fuels, roads, and northern spotted owls.

95. The Forest Service largely disregarded these concerns and declined to give detailed consideration to Plaintiffs’ proposed alternatives.

Alternatives Considered

96. The Forest Service analyzed three alternatives for the Youngs Rock Rigdon Project: A “no action” alternative and two action alternatives, Alternative 2 and Alternative 3. Both action alternatives contemplated treatments, including intensive commercial logging, on 2,780 acres of mature and old-growth stands and 1,515 acres of managed stands.

97. The only major, substantive difference between Alternatives 2 and 3 was the number of acres to be commercially logged versus noncommercially thinned. Alternative 2 would allow several hundred more acres of commercial thinning in mature and old-growth stands and clearcutting in managed stands, while under Alternative 3 these same areas would be noncommercially thinned.

98. The two action alternatives each proposed the same commercial logging prescriptions, with the same drastic reductions in canopy cover: heavy thinning in natural stands; heavy thinning with gaps (akin to clearcuts) in managed stands; and clearcutting in managed stands. Both alternatives authorized 273 acres of commercial logging in riparian reserves.

99. The two action alternatives also proposed the same noncommercial activities—fuels reduction, meadow restoration, and floodplain restoration—in the same areas and the same acreages. Both alternatives proposed storing or decommissioning roughly 60 miles of roads.

100. The two action alternatives each included constructing new spur roads, with Alternative 2 proposing 10 miles versus 7 miles under Alternative 3.

101. Plaintiffs and members of the public proposed various other alternatives, but the Forest Service eliminated them from detailed consideration. Plaintiffs asked the agency to consider a “conservation alternative” focused on retaining mature and old-growth trees; noncommercially thinning young, dense stands; and preserving spotted owl habitat.

102. More specifically, Plaintiffs asked the Forest Service to drop logging within natural stands with few pine trees; to retain more trees in mature and old-growth stands generally to maintain spotted owl habitat, carbon storage, and long-term, low-maintenance fire resilience; to retain all trees over 24 inches in diameter at breast height and smaller trees with old-growth characteristics; to avoid large-scale clearcut logging; to minimize or forego new road construction; and to expand noncommercial thinning. Such an alternative would require retaining far more than 30 trees per acres, and would serve additional purposes of storing carbon, mitigating the risk of blow-down, suppressing the growth of hazardous fuels, and protecting scenery and recreation values.

103. As Plaintiffs explained, their proposed alternatives would meet the Project's goal of sustainable timber production while also enhancing ecosystem resilience to climate change, avoiding substantial amounts of carbon emissions, and conserving more sequestered carbon in the forest. Plaintiffs warned that the Project's carbon impacts conflicted with federal climate policy and the EIS's climate analysis fell short of federal guidelines.

Carbon and Climate

104. As Plaintiffs noted in their detailed comments on the issue, the Youngs Rock Rigdon EIS includes less than three pages of analysis of the Project's effects on climate change, carbon storage, and greenhouse gas emissions.

105. Although the Project was expected to remove roughly 63 million board feet of trees from the area, requiring over 12,500 trips by full logging trucks, the EIS offered no explanation of how such tree removal would affect carbon storage or greenhouse gas emissions. Instead, it downplayed effects related to climate change by repeatedly referring to the Project's "negligible" and "extremely small contribution" to greenhouse gas emissions at the national and global scales.

106. Nowhere in its analysis did the Forest Service consider the Project’s impacts relative to local, Forest-wide, state-wide, or regional emissions, or even attempt to quantify the Project’s carbon footprint and its social cost—nor did the agency justify its failure to conduct such an analysis.

107. Instead, the Forest Service merely asserted that the Project’s carbon emissions “would have only a momentary influence on atmospheric carbon concentrations” because over time the forest would regrow and remove carbon. The agency claimed that emissions would be “balanced and possibly eliminated” by future storage of carbon by remaining and newly established trees, but it did not analyze how quickly carbon removed from the forest would be re-accumulated, nor did it attempt to quantify the forgone carbon capture caused by removing trees that would otherwise have continued to sequester carbon.

108. The Forest Service did not address limits to forest regrowth and future carbon storage that would result from repeated maintenance of logging treatments through prescribed burns and other actions that would occur under both action alternatives.

109. The agency further stated that the Project’s carbon emissions would be essentially canceled out because the logging will purportedly increase resistance to wildfire, drought, and other disturbances.

110. The Forest Service additionally asserted that the Project’s impacts would be “minor” because it would affect aboveground carbon stocks, which it described as “compris[ing] a fraction of the total ecosystem carbon stocks . . . 50 percent or more of the ecosystem carbon is in the soils.” But the Forest Service did not discuss what impacts, if any, the Project would have on soil carbon. And the Forest Service’s source for this claim does not support the agency’s

conclusions. See Duncan C. McKinley et al., *A Synthesis of Current Knowledge on Forests and Carbon Storage in the United States*, 21 *Ecological Applications* 1902, at 1908, 1911, 1917 (2011).

111. Indeed, the Forest Service’s sources undermine many of its claims. See *id.* at 1912 (“Generally, harvesting forests with high biomass and planting a new forest will reduce overall carbon stocks more than if the forest were retained, even counting the carbon storage in harvested wood products. Thinning . . . generally reduces net carbon storage rates and carbon storage at the stand level.”) (citations omitted); Kenneth E. Skog et al., *Managing Carbon, in Climate Change and United States Forests* 151, 163–65 (David L. Peterson et al., ed., 2014) (“[T]he net effect of fuel treatment [carbon] removal and surface fire emissions may exceed that from crown fire alone, even when materials from fuel treatments are used for wood products. . . . *Modeling studies suggest that fuel treatments in most landscapes will result in a net decrease in [stored carbon] over time[.]*”) (emphasis added, citations omitted).

112. The Forest Service did not address the adverse conclusions reached by its own sources—much less meaningfully respond to additional sources Plaintiffs submitted, although Plaintiffs repeatedly alerted the Forest Service to these discrepancies and shortcomings.

113. Plaintiffs also cited extensive scientific literature on how logging directly affects greenhouse gas emissions and carbon storage and sequestration. They provided evidence directly challenging the Forest Service’s assumptions and conclusions regarding the Project’s carbon and climate impacts.

114. Plaintiffs criticized the Forest Service’s analysis of carbon and climate change for minimizing the impact the Youngs Rock Rigdon Project will have on greenhouse gas emissions, carbon storage, and climate change. Plaintiffs asked the agency to provide a balanced analysis of the effects of logging on climate and carbon, quantify carbon emissions, place those emissions into

a cumulative context, and compare the alternatives' effects using proxy tools such as the "social cost of carbon" framework developed pursuant to EO 13990.

115. The Forest Service did not substantively alter its climate and carbon analysis in response to Plaintiffs' comments, nor did it respond to the opposing science Plaintiffs shared with the agency. Indeed, the Forest Service largely omitted Plaintiffs' detailed critique—and Plaintiffs' extensive expert sources—from the FEIS.

Mature and Old-Growth Forests

116. Relatedly, Plaintiffs expressed grave concern with the extent of logging in mature and old-growth forest authorized by the Project. Nearly half the area to be commercially logged—over 1,000 acres—is in "natural" stands, most of which are well over a century old. Moreover, although the EIS differentiates between the "regeneration logging" authorized in managed stands and the "thinning" in these mature and old-growth stands, the practical difference is fairly minimal. From a current average canopy cover of 75%, the Project calls for natural stands to be commercially thinned to as low as 28% canopy cover—compared to the 21% permitted by clearcutting in the managed stands.

117. Plaintiffs urged the Forest Service to protect mature forests in the Youngs Rock Rigdon Project because they are best positioned to grow into old-growth habitat in the shortest timeframe, noting that both mature and old-growth forest habitat remained at a deficit across the region. Moreover, mature and old-growth stands are uniquely valuable in terms of biodiversity, carbon sequestration, and resilience to climate change and wildfire.

Fuels and Fire Risk

118. In their comments on the DEIS, Plaintiffs noted that logging has complex impacts on fire and fuels: Some effects tend to reduce fire hazard, while others increase it. Plaintiffs asked

the Forest Service to consider and discuss the potential for significant reductions in canopy cover to increase fire hazard by making the forest hotter, drier, and windier; by allowing more sunlight to reach the forest floor, thereby stimulating the growth of surface and ladder fuels, which are more hazardous than canopy fuels; by generating hazardous slash; and by opening more roads to worker and visitor use, thus increasing the risk of human-caused ignitions.

119. Plaintiffs additionally asked the Forest Service to consider and discuss the low likelihood that fuel treatments will actually interact with fire during the treatments' periods of effectiveness, making any purported benefits of such treatments unlikely to be realized, while all the Project's adverse trade-offs—including loss of stored carbon; harm to threatened wildlife and sensitive habitat; and impacts to riparian areas, soils, and water—are certain to occur.

Impacts from Road Construction

120. Plaintiffs also flagged the extent of new road construction and the Forest Service's failure to adequately analyze its impacts. As Plaintiffs explained in their comments, roads and motorized use are associated with significant adverse effects to soils, vegetation, water, invasive species, and wildlife. The Forest Service conceded that "roads continue to be the largest source of human-caused sedimentation in the project area." Yet, although the Forest Service identified a need to move towards a more "sustainable road system," the Project authorizes construction of 7.5 miles of new roads and repair or reconstruction of many miles more.

121. Plaintiffs noted that the EIS failed to take a hard look at the impacts of road construction: It did not disclose proposed roads' location, length, acres accessed, soil types, slope, number of large trees to be removed to accommodate construction, proximity to water or other sensitive resources, or the design criteria to be used. Additionally, Plaintiffs noted that the Forest

Service’s assertion that temporary logging roads would be obliterated is misleading, as even “temporary” roads have long-term, negative impacts. And closed or “stored” roads are often still accessible to unauthorized vehicle use, creating further, ongoing impacts to fire risk, soils, water, and wildlife—including federally protected species such as the northern spotted owl, which is found throughout the Project area.

Impacts to Northern Spotted Owls and Their Habitat

122. Plaintiffs expressed grave concerns regarding the Project’s impacts on the threatened northern spotted owl. The Project area contains thousands of acres of suitable northern spotted owl habitat, 13,875 acres of designated critical habitat, and approximately 20 spotted owl sites, 16 of which would be directly impacted by logging activities.

123. The Project will remove roughly 2,300 acres of suitable owl habitat—including more than 1,000 acres of critical habitat—and 467 acres of dispersal habitat.

124. The Forest Service conceded that the Project will adversely affect the northern spotted owl and its critical habitat.

125. However, the Forest Service did not formally consult with the FWS regarding the Project’s impacts to the spotted owl. Instead, the agency relied on the Forest-wide 2020 BiOp for all timber management activities, which did not discuss the specific impacts of the Project or explain the significance of those effects in the context of the species’ accelerating decline.

126. Plaintiffs criticized the Forest Service’s reliance on the programmatic BiOp, which they noted did not account for the impact of recent wildfires that burned through nearly a million acres of owl habitat on the Forest between 2020 and 2022.

127. Plaintiffs also asked the Forest Service to conserve more suitable habitat for spotted owls and their prey, including red tree voles; they noted that much of the Project area is designated

as owl critical habitat, and that habitat loss is a major contributing factor to the species' accelerating decline.

128. The Forest Service largely disregarded Plaintiffs' comments on proposed alternatives, climate and carbon, mature and old-growth forests, fire hazard, road construction, and the northern spotted owl.

Plaintiffs' Objections to the Youngs Rock Rigdon Project Final EIS and Draft ROD

129. In April of 2023, the Forest Service released the Youngs Rock Rigdon FEIS, along with a draft ROD indicating the Forest Service would select Alternative 2—authorizing the highest levels of commercial logging and clearcutting—for implementation.

130. Plaintiffs timely objected to the FEIS and draft ROD, again raising numerous concerns related to the Forest Service's consideration of alternatives; the extent and intensity of commercial logging; the agency's cursory and misleading analysis of climate and carbon impacts; and the Project's impacts on mature and old-growth forest, soils, fire hazard, spotted owls and their habitat, and a host of other values.

131. In addition to reiterating their concerns with logging mature and old-growth stands, Plaintiffs noted that the Project runs counter to EO 14072, released after the DEIS but before the FEIS, which directs federal agencies to protect such forests and manage them for biodiversity and carbon sequestration values. Plaintiffs objected to the Forest Service's failure to consider EO 14072 or address extensive public comments regarding the value of mature and old-growth forests and the disproportionate adverse impacts of logging on such forests.

132. Plaintiffs noted that the Forest Service had failed to consider its own inventory of mature and old-growth forests, despite the inventory's release over seven months before the FEIS, and failed to consider other publicly available inventories of mature and old-growth forest and

associated science regarding the benefits of retaining mature and old-growth forest stands. Plaintiffs documented mature and old-growth stands and trees in multiple units slated for logging.

133. The Forest Service again largely ignored Plaintiffs' concerns.

134. In response to Plaintiffs' criticism of the DEIS's reliance on the outdated 2020 BiOp, the Forest Service in the FEIS substituted a reference to the 2023 BiOp, but asserted that any new information in the 2023 BiOp was irrelevant because recent wildfires had not burned through the Project area. The agency did not acknowledge the differences between the two BiOps or update its spotted owl discussion.

Final ROD and Agency Old-Growth Directives

135. On December 8, 2023, the Forest Service issued a final ROD for the Youngs Rock Rigdon Project.

136. On December 20, 2023, the Department of Agriculture announced plans to amend all National Forest System units' management plans "to foster the long-term resilience of old-growth forest." In anticipation of these changes, the Deputy Chief of the National Forest Service ordered that "any projects proposing vegetation management activities" in old-growth forests in the National Forest System would be submitted to his office "for review and approval," effective immediately.

137. On January 17, 2024, Plaintiffs notified the Regional Forester that the Project would impact "old growth forest conditions" and formally requested that it be submitted to the Deputy Chief for review.

138. On February 2, 2024, the Regional Forester responded, stating that the Project "was submitted for Agency and Departmental review" prior to publication of the FEIS. She asserted that the Project "would meet the intent of" the Department's and the Deputy Chief's announcements.

But she did not clarify whether the earlier review had actually satisfied the December 2023 directives, nor commit to seeking further review by the Deputy Chief.

139. As adopted by the final ROD, the Project authorizes 7.5 miles of new road construction, commercial thinning in 736 acres of managed stands, clearcut logging in 453 acres of managed stands, and commercial thinning in 1,053 acres of mature and old-growth stands.

140. Although it modified the final Project somewhat to avoid removing spotted owl habitat in occupied sites, the Forest Service chose to move forward with intensive logging in suitable and dispersal spotted owl habitat, riparian reserves, and mature and old-growth stands; hundreds of acres of clearcuts; and new road construction—and without further analysis of the Project's impacts.

141. The Forest Service intends to develop and mark out the first timber sale for the Youngs Rock Rigdon Project in 2024 and to begin commercial logging in early 2025.

**CLAIM FOR RELIEF
(Violations of NEPA and APA)**

Count One – Failure to Consider Reasonable Alternatives

142. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

143. NEPA requires all federal agencies to consider reasonable alternatives for proposed actions. 42 U.S.C. § 4332(C).

144. The existence of a viable but unexamined alternative renders an EIS inadequate.

145. The Forest Service failed to consider reasonable alternatives for the Youngs Rock Rigdon Project suggested by Plaintiffs that better harmonize potentially competing objectives and conservation values, including enhancing pine and oak persistence, reducing fire risk and increasing fire resilience, retaining and promoting carbon storage, and maintaining habitat for ESA-listed species in the Project area.

146. Moreover, the Forest Service's two action alternatives are functionally identical, varying primarily in the number of acres to be commercially logged versus noncommercially thinned. Both alternatives call for essentially the same actions and the same intensity of treatments on the same area and the same total acreage. The Forest Service did not consider a true alternative that would balance competing objectives by retaining greater canopy cover in mature and old-growth forests; foregoing commercial logging in riparian reserves, mature and old-growth stands, spotted owl critical habitat, and special interest areas; or relying solely on thinning rather than clearcutting.

147. The Forest Service's failure to consider reasonable alternatives violates NEPA and its implementing regulations and is arbitrary, capricious, an abuse of discretion, not in accordance with the law, and without observance of procedure required by law. 5 U.S.C. § 706(2).

Count Two – Failure to Take a Hard Look at Direct, Indirect, and Cumulative Impacts

148. Plaintiffs reallege and incorporate by reference all preceding paragraphs.

149. An EIS must identify, analyze, and disclose the direct, indirect, and cumulative effects of the proposed action.

150. To take the required "hard look" at a project's effects, an agency may not rely on incorrect assumptions or data. The information in an EIS must be of high quality, and the agency must ensure the scientific integrity of its analysis. Accurate scientific analyses, expert agency comments, and public scrutiny are essential to implementing NEPA. An agency must disclose and discuss responsible opposing views. It must include public comments in the final EIS and meaningfully respond to them.

151. The Forest Service failed to identify, analyze, disclose, or otherwise take a hard look at the Youngs Rock Rigdon Project's direct, indirect, and cumulative impacts from new road

construction; on increased fire risks from logging; on mature and old-growth forest stands; on northern spotted owls and their habitat; and on carbon sequestration, carbon emissions, and climate change. The Forest Service failed to ensure the scientific integrity of its analysis, respond to public comments, or address responsible opposing viewpoints. And the Forest Service failed to draw a rational connection between the evidence before the agency and its ultimate decision.

Carbon and Climate

152. The Forest Service failed to utilize available tools and information to take a site-specific hard look at the impacts of the Youngs Rock Rigdon Project on carbon storage and emissions, including the social cost of such carbon emissions. The Forest Service failed to justify its rejection of these accepted and widely available analytic tools. And the Forest Service improperly minimized the Project's carbon and climate impacts.

153. The Forest Service failed to update its carbon and climate analysis and consideration of alternatives in light of EO 13990, the Interagency Working Group's interim social cost of carbon metric, the CEQ's January 2023 interim guidance, or EO 14072, which articulates the federal policy of managing mature and old-growth forests for their value in combating climate change.

154. The Forest Service failed to ensure the scientific integrity of its carbon and climate analysis by misrepresenting the sources on which it purportedly based its conclusions, minimizing or simply ignoring conflicting evidence, and downplaying the uncertain and highly controversial nature of its assumptions regarding the Project's carbon and climate impacts. It failed to acknowledge, consider, or respond to opposing scientific viewpoints or Plaintiffs' extensive comments regarding the effects of logging on carbon and climate.

155. The Forest Service further failed to draw a rational connection between the evidence before it and its conclusions regarding the carbon and climate impacts of the Youngs Rock Rigdon Project.

Mature and Old-Growth Forests

156. The Forest Service failed to take a hard look at the impact of intensive logging in mature and old-growth forests. It failed to acknowledge either its own inventory of such forests, which showed high mature and old-growth components in the areas to be logged under the Project, or outside research showing that many of the Project's logging units are in old-growth forest.

157. The Forest Service did not explain how its decision to aggressively log mature and old-growth forest—in some cases to a level near its clearcutting prescriptions in managed stands—was consistent with federal policy emphasizing the need to preserve such forests and manage them for their biodiversity and carbon sequestration values.

158. The Forest Service did not support its assertion that the planned commercial logging was necessary for—or even congruent with—maintaining and promoting old-growth habitat characteristics.

New Road Construction

159. The Forest Service failed to analyze or disclose site-specific information regarding new road construction, including location, length, acres accessed, soil types, slope, number of large trees to be removed, proximity to water or other sensitive resources, or the design criteria to be used. Additionally, the agency improperly minimized the impacts of temporary road construction, which can have long-term impacts on soils and invasive species infestations, and failed to adequately account for the likelihood of continued illegal use of roads placed in storage.

Wildfire Risks

160. The Forest Service failed to acknowledge, consider, or respond to opposing scientific viewpoints or Plaintiffs' extensive comments regarding the increased fire risks associated with logging, the unlikelihood of fuel treatments interacting with wildfire, and mature and old-growth forest stands' climate and fire resilience.

161. The Forest Service failed to rationally explain its application of aggressive logging prescriptions to "natural" (mature and old-growth) mixed-conifer forests under the guise of fire risk reduction, fire behavior modification, and pine and oak enhancement; further failed to take a hard look at increased fire risks from canopy removal; and failed to provide a logical and compelling rationale for its determination that expected benefits outweigh the ecological costs. Its cursory treatment of opposing viewpoints and conclusory statements regarding these controversial issues did not satisfy NEPA's hard look requirement.

Northern Spotted Owl

162. The Forest Service failed to take a hard look at the Project's impact on the northern spotted owl, its habitat, and its prey species. It did not fully take into account the loss of spotted owl habitat in the nearby 2022 Cedar Creek Fire and the dire need to retain suitable habitat in the face of barred owl competition and accelerating population declines before authorizing the removal of roughly 2,000 more acres of suitable habitat in the Youngs Rock Rigdon Project.

163. The Forest Service arbitrarily relied on an outdated programmatic biological opinion in its discussion of the Project's impacts on spotted owls, and failed to consider and disclose material differences between the older, invalid biological opinion and the updated, operative biological opinion. Although the Forest Service updated the reference in the FEIS, it did not revisit its analysis and incorrectly asserted that the new information in the operative biological

opinion was irrelevant. It thus failed to take a hard look at the Project's impacts on the northern spotted owl and failed to ensure the scientific integrity of the FEIS.

164. The Forest Service's failure to sufficiently analyze and disclose the direct, indirect, and cumulative impacts of the Youngs Rock Rigdon Project, including its failure to discuss opposing scientific viewpoints and respond to public comments, violates NEPA and its implementing regulations and is arbitrary, capricious, an abuse of discretion, not in accordance with the law, and without observance of procedure required by law. 5 U.S.C. § 706(2).

REQUEST FOR RELIEF

Plaintiffs Oregon Wild and WildEarth Guardians respectfully request that this Court:

- a. Adjudge and declare that Defendants' approval of the Youngs Rock Rigdon Project violated NEPA and its implementing regulations and thus is arbitrary, capricious, an abuse of discretion, and contrary to law;
- b. Hold unlawful and set aside the ROD and FEIS for the Youngs Rock Rigdon Project, and order Defendants to withdraw the ROD and FEIS and any associated contracts until such time as Defendants demonstrate they have complied with the law;
- c. Enjoin Defendants and their contractors, assigns, and other agents from proceeding with any new road construction, road maintenance associated with commercial logging, commercial logging in natural stands or riparian reserves, regeneration logging, or any commercial logging that would remove or downgrade suitable spotted owl habitat unless and until the violations of federal law set forth herein have been corrected;
- d. Enter such other declaratory relief and temporary, preliminary, or permanent injunctive relief as may be prayed for hereafter by Plaintiffs; and

- e. Award Plaintiffs their costs of suit, reasonable expenses, and attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

Respectfully submitted this 13th day of June, 2024.



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