

UNITED STATES OF AMERICA
DEPARTMENT OF AGRICULTURE
UNITED STATES FOREST SERVICE

In re Objection to the Draft Decision Notice,)
Finding of No Significant Impact, and)
Environmental Assessment for the Foothills)
Landscape Project;) Objection No. _____
)
Chattooga River, Blue Ridge, and Conasauga)
Ranger Districts;)
)
Chattahoochee-Oconee National Forests;)
)
Georgia ForestWatch, the Chattooga Conservancy,)
Georgia Chapter of the Sierra Club, and the)
Wilderness Society)
)
OBJECTORS)

NOTICE OF OBJECTION AND STATEMENT OF REASONS

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Pursuant to 36 C.F.R. § 218.8(d)(3), Georgia ForestWatch is designated as the lead objector.

Please direct communications regarding this Objection to Brian Gist at the Southern Environmental Law Center.

NOTICE OF OBJECTION

Pursuant to 36 C.F.R. § 218, Georgia ForestWatch, the Chattooga Conservancy, the Georgia Chapter of the Sierra Club, and the Wilderness Society (the Objectors) object to the Final Environmental Assessment (Final EA), Draft Decision Notice (DDN), and Finding of No Significant Impact (FONSI) for the Foothills Landscape Project. These decisions fall short of the standards required by the National Environmental Policy Act (NEPA), the National Forest Management Act (NFMA), and their implementing regulations. The responsible official for this project is Mr. Edward Hunter, Jr., Forest Supervisor, Chattahoochee-Oconee National Forests. The public notice was published in the Gainesville Times on October 27, 2021. This Objection is timely.

INTEREST OF THE OBJECTORS

Georgia ForestWatch is a non-profit organization with a mission “to enhance the health of Georgia’s 867,000 acres of National Forest by protecting our forests and streams, advocating for natural processes and identifying opportunities to improve Forest management.”¹ Georgia ForestWatch actively and routinely participates in the management of the Chattahoochee-Oconee National Forests.

The Chattooga Conservancy is a non-profit grassroots conservation organization working to protect, promote, and restore the natural ecological integrity of Chattooga River watershed ecosystems; to ensure the viability of native species in harmony with the need for a healthy human environment; and, to educate and empower communities to practice good stewardship on public and private lands. The Chattooga Conservancy has an organizational interest in the proper and lawful management of public lands within and adjacent to the Chattooga River watershed, including the Sumter, Nantahala and Chattahoochee National Forests. Members, staff, and board members participate in a wide range of activities on these national forest lands, including those areas within the Chattahoochee National Forest that are proposed for management activities in the Foothills Landscape Project. The Chattooga Conservancy represents approximately 600 members that support its work.²

The Sierra Club is a national non-profit organization with 67 chapters and more than 820,000 members dedicated to exploring, enjoying, and protecting the wild places of the earth; to practicing and promoting the responsible use of the earth’s ecosystems and resources; to educating and enlisting humanity to protect and restore the quality of the natural and human environment; and to using all lawful means to carry out these objectives. The Sierra Club’s concerns encompass protecting national forests, including those in Georgia. The Georgia Chapter of the Sierra Club has approximately 12,000 members in the state of Georgia.³ The Wildlands & Wildlife Committee of the Georgia Chapter is particularly focused on “advocat[ing] for responsible management and protection of our public lands and wild forests.”⁴

The Wilderness Society is a non-profit organization dedicated to uniting people to protect America’s wild places. With members and supporters across the United States, including Georgia, The Wilderness Society envisions a future where people and wild nature flourish together, meeting the challenges of a rapidly changing planet, and where these lands are protected for future generations. The Wilderness Society believes that our public lands, including Georgia’s public lands, belong to and should benefit all of us, and when public lands are

¹ <http://gafw.org/>

² <https://chattoogariver.org/about/>

³ <https://www.sierraclub.org/georgia>

⁴ <https://www.sierraclub.org/georgia/wildlands>

protected as part of big, connected landscapes, they provide us with the best hope of helping natural systems and human communities thrive and adapt to climate change.

The Southern Environmental Law Center is a regional non-profit organization working to conserve natural resources on public lands throughout the Southern Appalachians. The Southern Environmental Law Center prepared this Objection on behalf of the Objectors.

INTRODUCTION

The Objectors have been involved with the Foothills Landscape Project since its inception, participating in every stage of the NEPA process, in meetings to establish the planned collaborative group, and in meetings with Forest Service staff. Throughout this process, the Objectors have attempted to participate in a meaningful and constructive fashion, encouraging the Forest Service to develop the Foothills Landscape Project in a positive direction that will meet the agency's objectives and its legal obligations. The Objectors have repeatedly sought clarification on how the Forest Service plans to implement the project, raised concerns that current plans do not disclose adequate information to understand the potential effects of the Foothills Landscape Project on the Chattahoochee-Oconee National Forest (CONF), and that current plans do not afford sufficient opportunities for public participation.

This Objection arises from three central problems with the Final EA, DDN, and FONSI. First, although the Final EA purports to use a programmatic approach, it fails to clearly identify when (or if) future actions will receive additional, tiered NEPA review.⁵ Second, the Final EA seeks to defer critical decisions to the planned collaborative group, allowing these decisions to be made after the Final EA and outside of the NEPA process. Third, the Final EA does not properly account for the Foothills Landscape Project's effects on carbon emissions and carbon storage in the CONF. These deficiencies reflect questions and comments raised by the Objectors since this project's inception.

With respect to the scope of the programmatic review, the Final EA places the Objectors in an untenable position. The Final EA concedes that it lacks adequate site-specific information for many of the actions proposed as part of the Foothills project, but only commits to conduct additional analysis when the Forest Service deems further review to be "warranted."⁶ The Final EA assiduously avoids any further commitments or clarification on when tiered NEPA review may be performed. It is impossible for anyone, including the Objectors, to read the Final EA and

⁵ There is presently uncertainty around the applicability of different versions of NEPA regulations and guidance. Recent changes to the Council on Environmental Quality's NEPA regulations, CEQ's guidance on the consideration of greenhouse gas emissions, and the Forest Service's NEPA regulations are all under review, are governed by interim guidance, or are the subject of legal challenges. This Objection relies on the relevant legal authority controlling here.

⁶ Final EA at Table 17.

understand what decisions the Forest Service believes have been completely reviewed under the Final EA and what decisions will require additional NEPA review.

The Council on Environmental Quality (CEQ) issued guidance to federal agencies regarding the appropriate use of programmatic NEPA reviews (CEQ Programmatic NEPA Guidance).⁷ This guidance cautions agencies to avoid programmatic NEPA documents that create this precise situation:

Clarity of approach is essential to avoid the impression that a programmatic NEPA review creates a situation whereby the public is too early to raise issues in the broader programmatic analysis and then too late to raise them in any subsequent tiered analyses.⁸

Now the Objectors find themselves in the situation CEQ cautioned agencies to avoid.

With respect to the planned use of the collaborative group, the Objectors have repeatedly cautioned against allowing this group to make key decisions after completion of the Final EA. Collaborative groups are a useful tool to help identify areas of consensus and build support for Forest Service actions. The Objectors have participated in efforts to form the Foothills collaborative group and believe the group can help build consensus here as well. But collaborative groups cannot be used to avoid legal obligations under NEPA or other statutes.

In stakeholder meetings for the collaborative group, the Forest Service acknowledged that it was unusual to form a collaborative group and perform the NEPA review for a project at the same time. Forest Service staff described this effort as “trying to build the plane as we fly it.” Unfortunately, the Final EA, DDN, and FONSI demonstrate the shortcomings of this approach.

The problem here does not arise from the use of a collaborative group, but from the order of operations. It is perfectly appropriate for the Forest Service to use a collaborative group to build consensus and inform its decisions. But here, the Forest Service seeks to complete its NEPA review first and allow the collaborative group to make crucial implementation decisions later. Making these decisions after and outside of the NEPA process is prohibited by law.

Finally, with respect to the Final EA’s consideration of greenhouse gas emissions, the document falls short of NEPA’s “hard look” standard because it fails to use a quantitative approach to evaluate the project’s impacts on carbon emissions and storage. Further, the agency’s qualitative analysis also misses the mark because it provides an incomplete picture of

⁷ Memorandum for Heads of Federal Departments and Agencies re: Effective Use of Programmatic NEPA Reviews, Council on Environmental Quality (Dec. 18, 2014) available at https://www.energy.gov/sites/default/files/2014/12/f19/effective_use_of_programmatic_nepa_reviews_18dec2014.pdf

⁸ Id. at 26.

the project's climate change effects. Given the Foothills Landscape Project's sweeping scope, it has equally broad potential to impact carbon emissions and storage on the CONF. In fact, the Foothills project may have the greatest impact on carbon storage and emissions on the CONF of any Forest Service project ever proposed. The Forest Service must assess and disclose the project's overall climate impact, and this cannot be accomplished through quantitative analyses of smaller, site-specific actions tiered to the larger Foothills Project (to the extent those are completed).

Fortunately, none of these problems are fatal to the Foothills Landscape Project. To the contrary, the Objectors believe that these issues can be addressed: by clarifying the scope of the programmatic review; by reviewing the collaborative group's decisions through NEPA; and by adopting a quantitative approach to evaluating the project's impact on climate change.

STATEMENT OF REASONS, VIOLATIONS OF LAW, SUGGESTED REMEDIES

I. Background

The Foothills Landscape Project is likely the most expansive and complicated project ever proposed for the CONF. The proposed project area covers approximately 20% of the CONF and would authorize dozens of different implementation actions. The Forest Service seeks to use a condition-based management approach, but the location, scope, and scale of specific actions to implement the Foothills project are largely unknown at this time. Instead, decisions on how to implement the Foothills Landscape Project will be made by Forest Service staff at some point in the future based on conditions on the ground and input from a collaborative group convened by the Forest Service. It is unknown how many specific actions will be undertaken through the Foothills project, or how long the project will last. In fact, even with the benefit of the Final EA, remarkably little is known about exactly what the Foothills Landscape Project will entail beyond its geographic limits.

The Objectors have actively participated in the Foothills Landscape Project throughout its development. In October 2017, the Forest Service conducted scoping on project and the Objectors submitted comments on that document. A copy of these scoping comments is attached as Ex. 1. In December 2019, the Forest Service released a Draft Environmental Assessment for the project and the Objectors submitted comments on that document. A copy of these comments is attached as Ex. 2 and will be referenced herein as "January 2020 Draft EA Comments." In July 2021, the Forest Service released a Revised Draft Environmental Assessment for the project, and the Objectors submitted comments on that document. A copy of these comments is attached as Ex. 3. and is referenced herein as the "August 2021 Draft EA Comments." The Objectors also submitted comments to the Forest Service regarding this project outside of official NEPA comment periods. Copies of this correspondence is attached as Ex. 4. The Forest Service released a final Environmental Assessment, Finding of No Significant Impact, and draft Decision Notice for the Foothills Landscape Project on October 27, 2021.

The Forest Service plans to use a collaborative group to inform and advise its work performed as part of the Foothills Landscape Project. The Final EA states that this group “will be formed, prior to a final decision, to work with public land managers to further influence the scope, scale, and exact locations of specific treatments within the project area.”⁹ The Forest Service also anticipates that feedback from the collaborative group “may result in modifications to the timing, methods, and monitoring requirements of the proposed action.”¹⁰ As with the NEPA process, the Objectors have participated as stakeholders in numerous planning meetings conducted by the Forest Service to establish the Foothills Collaborative Group.

II. The Final Programmatic EA Fails To Identify The Actions That Will Receive Additional, Tiered Review Before Implementation And The Actions That Will Not.

The first key problem with the Final EA, DDN, and FONSI is the lack of clarity concerning how the Forest Service is conducting its programmatic review of this project. The Final EA states that it is a programmatic document, but also states that some proposed actions have been fully evaluated and will be implemented without additional review. But the Final EA does not identify which actions have been fully evaluated and which actions will require tiered review in the future. The Objectors have previously raised concerns about the lack of clarity around the scope of the programmatic decision in their comments on the Draft EA.¹¹

a. Failure To Conduct Site-Specific Analysis Of Agency Actions Violates NEPA.

NEPA requires agencies to undertake and disclose site-specific analysis before making decisions with site-specific impacts.¹² In other words, whenever an agency proposes to choose among options that have different site-specific environmental consequences—like logging in one area versus another—the agency must provide site-specific analysis of those environmental consequences through the NEPA process before making a final decision.¹³ Specifically, when an agency prepares a site-specific analysis for a project-level action, it must include “a reasonably

⁹ Final Programmatic EA Appx. B at B73.

¹⁰ Id.

¹¹ August 2021 Draft EA Comments at 10 and 15-20.

¹² E.g., California v. Block, 690 F.2d 753, 761 (9th Cir. 1982) (holding that site-specific impacts must be “fully evaluated” when an agency proposes to make an “irreversible and irretrievable commitment” of resources to a project at a particular site).

¹³ See, e.g., Western Watersheds Project v. Abbey, 719 F.3d 1035, 1049 (9th Cir. 2013) (internal citation omitted) (holding that BLM has a “critical duty to ‘fully evaluate[]’ site-specific impacts” even after issuing a programmatic EIS); Klamath-Siskiyou Wildlands Ctr. v. U.S. Forest Serv., No. 2:05-CV-0299, 2006 WL 1991414, at *9–10 (E.D. Cal. July 14, 2006) (invalidating the use of an EA without site-specific analysis for project locations).

thorough discussion of the distinguishing characteristics and unique attributes of each area affected by the proposed action.”¹⁴

NEPA caselaw make clear that agencies are permitted to conduct programmatic NEPA reviews that fully evaluate some actions and defer full review of other actions until a tiered review in the future.¹⁵ But to the extent a programmatic document does not make site-specific decisions and does not contain site-specific analysis, then the agency’s NEPA review is not complete. Here, the Final EA explicitly defers site-specific decisions to the future and does not contain site-specific analysis. Yet the Final EA waffles on whether additional site-specific NEPA review will be performed.

Although the Final EA appears to acknowledge that additional review is required in some cases,¹⁶ the lack of clarity regarding the scope of the programmatic review compels the Objectors to restate their position that the Final EA, DDN, and FONSI lack sufficient site-specific detail to satisfy NEPA without additional, tiered NEPA review. The Objectors have repeatedly, and in great detail, advised the Forest Service that the Foothills EA lacks the necessary site-specific analysis to satisfy NEPA and implementing the project without additional, tiered NEPA review would be unlawful.¹⁷

Examples of site-specific conditions that are not adequately evaluated in the Final EA include: habitat impacts (connectivity, permeability, and fragmentation at scales relevant to both broad-ranging and dispersal-limited species); rare habitats and species occurrences; disturbance history; current stand conditions and suitability for maintenance and restoration of old-growth conditions; sensitivity of receiving waters; archeological resources; access considerations; scenic integrity; and recreation settings. For the sake of brevity and to avoid redundancy, the Objectors will not restate their prior comments in their entirety here but incorporate them by reference.

¹⁴ Stein v. Barton, 740 F. Supp. 743, 749 (D. Alaska 1990); see also, Klamath-Siskiyou Wildlands Ctr., 2006 WL 1991414, at *9–10.

¹⁵ CEQ Programmatic NEPA Guidance at 15 (“Agencies may prepare a single NEPA document to support both programmatic and project-specific proposals.”); Scientists' Inst. for Pub. Information, Inc. v. Atomic Energy Comm'n, 481 F.2d 1079, 1092 (D.C.Cir.1973)(A single EIS may cover both programmatic impacts and impacts of particular projects contained within the broader program.); and City of Tenakee Springs v. Block, 778 F.2d 1402, 1407 (9th Cir. 1985) (finding that “NEPA requires both a programmatic and a site-specific EIS,” and that agencies do not have discretion “to determine the specificity required by NEPA” in a site-specific EIS but must instead adhere to the statute).

¹⁶ Id. at 45 (tiered NEPA review may be required); Id. at Table 17 (same); and Id. at Appx. B at B73 (same).

¹⁷ In particular, see January 2020 Draft EA Comments passim.

Additional, tiered review is also necessary to advance this project under an EA and FONSI, rather than an environmental impact statement. On its face, the actions authorized through the Foothills Landscape Project have the potential for significant effects, both individually or cumulatively.¹⁸ The Final EA, DDN, and FONSI describe a virtually unbounded project and ignore the Objectors' recommendation to impose limits on the project to avoid significant effects.¹⁹ In other words, the Foothills Landscape Project has retained the flexibility to take actions that, in the wrong places or with inadequate site-specific mitigation, would cause significant harm.

Future, tiered NEPA review can cure these deficiencies. But without additional review, most of the actions to implement the Foothills Landscape project cannot be lawfully undertaken and the EA/FONSI cannot be supported. As the Forest Service is certainly aware, a similar condition-based management project was struck down for failure to utilize a programmatic approach and conduct adequate tiered NEPA review.²⁰ If the Forest Service commits to conduct site-specific review of implementation projects here, the result will be equally unlawful.

b. CEQ Guidance Directs Agencies To Clearly Explain The Scope Of A Programmatic Document, Including The Actions That Will Receive Additional Review And Those That Will Not.

In order to prevent agencies from acting unlawfully in programmatic reviews, CEQ has issued guidance instructing agencies to clearly identify which actions are completely reviewed in the programmatic document, versus which actions require further review:

- “The agency should clearly state which concerns are addressed at that level of NEPA review and with [sic] concerns will be tiered to a subsequent NEPA review.”²¹
- “Agencies should clearly and concisely articulate their intentions to defer particular environmental review and consultation requirements for consideration until a subsequent project or site-specific proposal is developed. It may be helpful for the agency to set a timing reference or triggering event that initiates the next tier of analysis.”²²

¹⁸ August 2021 Draft EA Comments at 15-20 and January 2020 Draft EA Comments at 12-27.

¹⁹ Id.

²⁰ Se. Alaska Conservation Council v. United States Forest Serv., 443 F. Supp. 3d 995, 1007 (D. Alaska 2020), appeal dismissed, No. 20-35738, 2020 WL 6882569 (9th Cir. Oct. 22, 2020) (Citing the Forest Service's failure to “prepar[e] a programmatic EIS to be followed by site-specific NEPA analyses for individual timber sales as they occur.”).

²¹ CEQ Programmatic NEPA Guidance at 26.

²² Id. at 28.

- “Agencies should clearly communicate the purpose and need for the programmatic and subsequent decisions, clearly state the decisions the agency proposes to make based directly on the PEA or PEIS, and distinguish the analysis of impacts and alternatives of the broad programmatic proposals from project- or site-specific proposals.”²³
- “Thus, the deferred analysis should be identified and the intended use of tiering made clear at the outset of scoping, and articulated in the programmatic review. Informing participants and the public of the expected timing of the tiered review(s), as well as the issues and depth of analysis, allows them to concentrate on the issues at hand, rather than on those that will be addressed later.”²⁴

The reasons for clearly explaining the limits of a programmatic NEPA document are obvious – the public cannot understand the decision and how the NEPA process will be conducted without it. Further, and directly applicable here, clearly identifying the limits of a programmatic decision will help agencies avoid disputes over the scope of that decision, whether sufficient site-specific review has been conducted, and whether the action will have significant effects.

c. The Final EA Does Not Identify Actions That Have Been Fully Reviewed, And Actions That Have Not.

Unfortunately, the Final EA, DDN, and FONSI directly contradict the CEQ’s well-founded guidance by only offering vague and opaque explanations of the nature of the programmatic decision. The Final EA makes clear that it believes some actions are fully evaluated in the programmatic document and will receive no further NEPA review.²⁵ But it also indicates that other actions have not been fully reviewed, and these actions may receive additional, tiered NEPA review in the future.²⁶ But the Final EA provides no explanation of the actions that are fully evaluated and those that are not. Instead of the clear explanation recommended by CEQ, the Final EA repeats a series of vague and inscrutable statements regarding when additional NEPA review may be conducted. For example:

- “As this is a programmatic NEPA decision, I have decided some actions in the proposal are narrow enough in scope to be implementable from this decision, whereas other, broader actions will require further review and be tiered to this analysis.”²⁷

²³ Id. at 15.

²⁴ Id. at 34.

²⁵ Final EA at 1 (“Projects will be implemented either based on the programmatic analysis or based on subsequent NEPA reviews tiered to the programmatic review (e.g., a site- or project-specific document.”).

²⁶ Id.

²⁷ DDN at 2.

- Actions “could then be authorized by the appropriate project specific NEPA compliance based on how the proposed treatments and conditions on the ground align with this EA (see Decision to be Made).”²⁸
- “Additional NEPA analysis may be warranted” based on “[r]eview of site conditions and analysis adequacy.”²⁹

The Forest Service’s description of the Final EA in the press reaffirms this vague position: “If warranted, projects will be publicly scoped and the appropriate level of review carried out if a review of site conditions for those future projects results in new or changed information that differs from what was considered in this analysis.”³⁰

Even after careful and repeated review of the Final EA, it is impossible to understand what actions the Forest Service believes have been sufficiently evaluated or in what circumstances additional, tiered review would be conducted. In fact, it appears that the Forest Service itself has not determined what actions are fully evaluated. To the contrary, the Final EA states that “forthcoming implementation plans (e.g., a site- or project-specific document) for each IA would serve as the baseline for determining whether the site-specific proposed activities have been sufficiently analyzed within this programmatic analysis or if subsequent, NEPA analysis would be required.”³¹

Understanding the scope of a programmatic review is critical to understanding this approach, and the Final EA’s hedging on this issue creates substantial uncertainty about how the Foothills Landscape Project will be implemented.

This Objection arises from the untenable position that CEQ cautioned agencies to avoid – the public is told that it is too early to raise concerns about the lack of site-specific review because it is a programmatic document, but risk being told at the implementation stage that it is too late to raise these concerns.

²⁸ *Id.* at 30.

²⁹ *Id.* at Table 17.

³⁰ Forest Service aims to conserve more than 5,000 acres of North Georgia woodlands by B. Benton, The Chattanooga Free Press (Nov. 8, 2021) available at <https://www.timesfreepress.com/news/local/story/2021/nov/08/forest-service-aims-upgrade-north-georgiowoodl/557552/>

³¹ Final EA Appx. B at B73.

d. The Final EA Suggests Two Different Standards For Implementing Its Programmatic Approach, And Both Are Unlawful.

To the extent the Final EA provides any insight into the actions that may receive additional, tiered NEPA review, it relies on two inconsistent and equally unlawful approaches.

i. The Final EA improperly suggests that that tiered review is only required when new or changed information becomes available.

First, the Final EA suggests that additional NEPA review will only be required if implementation actions reveal “new or changed information which differs from that considered in this analysis.”³² This language appears to confuse the standard for supplemental NEPA review (required when an action changes or new information is obtained after the action is completely reviewed under NEPA) with tiered NEPA review (required when a portion of the NEPA review is not performed at the programmatic stage and is deferred until later). One court succinctly explains the difference:

As background, NEPA regulations provide two frameworks within which additional NEPA analysis may occur after an initial EIS is finalized: namely, tiering and supplementation. Tiering refers to the incorporation by reference in subsequent EISs or EAs, which concentrate on issues specific to the current proposal, of previous broader EISs that cover matters more general in nature. 40 C.F.R. § 1508.28. Supplementation refers to the process of updating a previous EIS in situations where the agency makes substantial changes to the proposed action, or there are significant new circumstances or information. *Id.* § 1502.9(c).³³

By citing the presence of “new or changed information,” the Final EA seems to rely incorrectly on the standard for supplemental review under 40 C.F.R. § 1502.9(d)(1) instead of the standard for tiered review under 40 C.F.R. § 1508.28.³⁴

³² Final EA Appx. B at B67.

³³ *N. Alaska Env't Ctr. v. U.S. Dep't of the Interior*, 983 F.3d 1077, 1090 (9th Cir. 2020).

³⁴ The Final EA’s reference to the legal standard for NEPA supplementation rather than tiering may result from a misreading of dicta in cases such as *Vermont Pub. Int. Rsch. Grp. v. U.S. Fish & Wildlife Serv.*, 247 F. Supp. 2d 495 (D. Vt. 2002) and *Salmon River Concerned Citizens v. Robertson*, 32 F.3d 1346 (9th Cir.1994). In those cases, the standard for supplementation is discussed in the context of actions that the courts found had been completely evaluated by the agency in the programmatic document. Having already fully evaluated these actions at the programmatic stage, additional review is only required if the presence of new or changed information triggered the requirement for supplemental review. This situation is different than

- ii. The Final EA improperly suggests that tiered analysis will only be required when future, site-specific review shows it is necessary.

Alternatively, the Final EA also suggests that the need for subsequent NEPA review will only be determined after the Forest Service conducts additional site-specific analysis of the proposed actions in specific locations.³⁵

This is not how NEPA or programmatic reviews work. The Final EA either contains site-specific NEPA review or it does not. The law does not allow the Forest Service to conduct site review in the future and then decide, retroactively, that the information and analysis in the Final EA were sufficient. The very fact that the Final EA contemplates additional site review makes clear that this analysis has not been conducted already and that additional site-specific NEPA review is required. Further, conducting this additional review of “conditions on the ground” after the Final EA and outside of the NEPA process means that this site-specific information would not be disclosed to the public. In doing so, this approach would contradict both the letter of NEPA and the statute’s central purpose of public engagement.

In short: if additional review is necessary to determine whether the Final EA contains adequate site-specific analysis, then it does not. Both the contents of the Final EA and the plan to conduct additional review of “conditions on the ground” make clear that future, tiered NEPA review is required for virtually all implementation actions undertaken as part of the Foothills Landscape Project.

- e. The Final EA Must Be Revised To Clearly Indicate That Tiered Review Will Be Performed For Most Planned Actions.

The Objectors continue to believe that a programmatic NEPA review is the best way to balance the Forest Service’s interest in flexibility with its obligations under NEPA. Addressing the concerns raised in this Objection does not require a radical change in approach. If the Forest Service intends to conduct additional site-specific NEPA review for most implementation actions, it should make those plans clear by identifying the actions that will receive additional review versus those that will not. The Final EA, DDN, and FONSI should be revised to make

many of the actions described in the Final EA, which have not been fully evaluated in the programmatic document and full consideration of those issues is delayed until the tiered review.

³⁵ See, Final EA at 30 (“The restoration treatments selected to address existing conditions could then be authorized by the appropriate project specific NEPA compliance based on how the proposed treatments and conditions on the ground align with this EA.”); *Id.* at Table 17 (“Review of site conditions and analysis adequacy. Additional NEPA analysis may be warranted.”); and *Id.* at Appx. B at B73 (“The forthcoming implementation plans (e.g., a site- or project-specific document) for each IA would serve as the baseline for determining whether the site-specific proposed activities have been sufficiently analyzed within this programmatic analysis or if subsequent, NEPA analysis would be required.”) (emphasis added to all)

this clear. Unless this tiered review is conducted, including site-specific analysis of implementation actions, the requirements of NEPA have not been satisfied and the FONSI cannot be sustained.

III. The Final EA Improperly Delays Key Decisions To Be Made Based On Input From The Collaborative Group Without NEPA Review.

The second major problem with the Final EA, DDN, and FONSI relates to the planned use of a collaborative group to refine the scope and implementation of the Foothills Landscape Project. The Objectors believe this collaborative group can provide a useful forum for building consensus around locations and actions to implement the project. But the Final EA, DDN, and FONSI fall short by failing to commit to future, site-specific NEPA analysis while allowing the collaborative group to make site-specific decisions in the future, potentially outside of the NEPA process. Even if these decisions originate as collaborative recommendations, they become agency actions when adopted by the Forest Service and must be reviewed through the NEPA process. The Objectors previously commented on the need to evaluate a collaborative-defined alternative through NEPA.³⁶

a. Forest Service Decisions Made By Accepting Collaborative Group Recommendations Must Be Evaluated Through NEPA.

The Final EA makes clear that the collaborative group will be used to guide and further refine the actions undertaken as part of the Foothills Landscape Project. For example, the Final EA states that this group will “work with public land managers to further influence the scope, scale, and exact locations of specific treatments within the project area.”³⁷ The Final EA also anticipates that collaborative group recommendations “may result in modifications to the timing, methods, and monitoring requirements of the proposed action.”³⁸ The Objectors believe using the collaborative group in this fashion can help build consensus around implementation of the Foothills Landscape Project. But it is unlawful to make these decisions outside of the NEPA process, and without the analysis and public engagement that NEPA requires.

A concrete example might help illustrate the point. Assume that the collaborative group begins meeting after the Final EA, Final Decision Notice and FONSI are executed. Assume that the collaborative group discusses where fire treatments to create early successional habitat would be most effective, and the group recommends that fire treatments should not be implemented in mesic areas. Assume that the Forest Service adopts this recommendation, agrees not to pursue fire treatments in mesic areas as part of the Foothills Landscape Project, and begins implementing the project without further NEPA review. This hypothetical situation reflects how

³⁶ August 2021 Draft EA Comments at 12-15, 24, and 45-46.

³⁷ Final EA Appx. B at B73.

³⁸ Id.

the Objectors understand the Forest Service intends to use the collaborative group and appears to be authorized under the Final EA. Unfortunately, without additional NEPA review, this hypothetical situation would be unlawful.

b. The Collaborative Group's Recommendations To Guide Implementation Of The Foothills Landscape Project Constitutes A Reasonable Alternative That Must Be Evaluated Under NEPA.

In the hypothetical example above, the Forest Service's decision to preclude the use of fire treatments in mesic areas would be made without the benefit of the analysis required under NEPA. Further, although it would reflect input from the collaborative group, this decision would be made without the public engagement required under NEPA as well.

The example of fire treatment in mesic areas is a single example of how the collaborative group could make decisions that inform the types and locations of activities pursued as part of the Foothills project. In reality, the collaborative group will likely make a number of recommendations that the Forest Service will adopt to shape the actions and locations where the Foothills project will be implemented. This new project, shaped by the collaborative group's recommendations, will differ from the alternatives considered in the Final EA and effectively will operate as a new alternative adopted without review through the NEPA process.

NEPA requires an agency to consider all reasonable alternatives, and this comparison of alternatives is the heart of NEPA review.³⁹ Forest Service regulations direct that alternatives must be considered specifically where there are "unresolved conflicts concerning alternative uses of available resources."⁴⁰ Here, the Forest Service believes that it is necessary to convene a collaborative group to help make decisions on how to implement the Foothills Landscape Project after the Final EA. The need for this group provides clear evidence that there exist "unresolved conflicts concerning alternative uses of available resources" even after the Final EA, and that the three alternatives considered in that document are insufficient to inform the agency's decisions.

In fact, the collaborative group's primary reason for existence is to help the agency resolve the type of conflicts NEPA is intended to address. The Final EA expects the collaborative group to make recommendations regarding "the scope, scale, and exact locations of specific treatments within the project area," as well as "the timing, methods, and monitoring requirements of the proposed action."⁴¹ These are exactly the type of decisions that NEPA seeks to flesh out through the its alternatives analysis. But here, the Forest Service intends to adopt collaborative group recommendations instead, and in doing so will change the Foothills project in consequential ways from the alternatives considered in the Final EA. This new, collaborative-

³⁹ Citizens Against Burlington, Inc. v. Busey, 938 F.2d 190, 194 (D.C. Cir. 1991).

⁴⁰ 36 C.F.R. § 220.7(b)(2)(ii).

⁴¹ Final Programmatic EA Appx. B at B73.

recommendation alternative will be adopted without the benefit of the analysis and public engagement required under NEPA.

The Forest Service’s planned use of the collaborative group clearly demonstrates that unresolved conflicts over available resources continue to exist even after the Final EA. When the collaborative group makes decisions to resolve these conflicts, the refined project will constitute a “viable but unexamined alternative” that has not been evaluated through NEPA.⁴²

c. Collaborative Group Decisions Regarding Monitoring and Adaptive Management Must Be Reviewed Through NEPA.

Although the Final EA repeatedly references monitoring, it lacks specific commitments to perform monitoring, does not identify the information to be collected, and does not explain how this information will alter the Foothills Landscape Project’s adaptive approach. Instead, the Final EA indicates that the collaborative group will help decide what monitoring is necessary and how the monitoring results may alter the timing and methods of proposed actions.⁴³ And, once again, the Final EA appears to contemplated that these key decisions will be made after the agency executes the Final Decision Notice and FONSI, and without NEPA review. It is perfectly appropriate for the Forest Service to seek input from the collaborative group on these issues, but these key decisions cannot be made outside of the NEPA process.

The Objectors previously raised concerns about the sufficiency of the monitoring and the selection of actions undertaken to implement the Foothills Landscape Project.⁴⁴ The Objectors also raised concerns about the delegation of decisions to the collaborative group without NEPA review.⁴⁵

The Final EA indicates that an adaptive management approach will be used to implement the Foothills Landscape Project.⁴⁶ Further, the Final EA states that it will seek input from the collaborative group on the monitoring that will be performed and adjustments to the planned

⁴² Muckleshoot Indian Tribe v. U.S. Forest Serv., 177 F.3d 800, 814 (9th Cir. 1999).

⁴³ Id.

⁴⁴ August 2021 Draft EA Comments at 43, 42, and 12; see also, January 2020 Draft EA Comments at 14, 59, 73, 82, and 108.

⁴⁵ August 2021 Draft EA Comments at 12-15, 24, and 45-46.

⁴⁶ See Final EA at 31 (“Restoration should consider a range of future scenarios and **include adaptive and dynamic solutions** to restoration problems that might face our public lands.”); Final EA Appx. B at B68 (“Have exceptions come along (insect and disease outbreaks, wildfires, natural disasters, associated special funding) that would require **adaptive management** to meet these dynamic conditions?); and Draft Decision Notice at 2 (“By building in the flexibility to address these conservation challenges **adaptively** and ensuring our public can be involved every step of the way, we can shape the future of the landscape together.”)(emphasis added in each).

actions that will be made based on the monitoring results.⁴⁷ Once again, the problem arises from the order of operations, not from the use of a collaborative group. The collaborative group cannot be charged with establishing the monitoring requirements and adjustments to the planned actions without NEPA review of those decisions.

Forest Service regulations impose specific requirements for the monitoring and implementation of adaptive management proposals under NEPA:

An adaptive management proposal or alternative must clearly identify the adjustment(s) that may be made when monitoring during project implementation indicates that the action is not having its intended effect, or is causing unintended and undesirable effects. The EIS [or EA] must disclose not only the effects of the proposed action or alternative but also the effect of the adjustment. Such proposal or alternative must also describe the monitoring that would take place to inform the responsible official during implementation whether the action is having its intended effect.⁴⁸

This requirement is repeated in the Forest Service Handbook.⁴⁹

Both the regulation and the Forest Handbook make clear that the NEPA document for an adaptive management project must: (i) describe the monitoring that will take place during implementation to determine whether the action is having its intended effect; (ii) clearly identify the adjustments to be made when monitoring indicates that the action is not having its intended effect; and (iii) disclose the effects of both the proposed action and also the effects of the adjustment. The Final EA does not contain any of these three required elements.

⁴⁷ Final EA Appx. B at B73 (“The collaborative working group and/or subsequent public feedback on the specific project activities may result in modifications to the timing, methods, and monitoring requirements of the proposed action.”).

⁴⁸ 36 C.F.R. §220.7(b)(2)(iv). See also, 36 C.F.R. § 220.7(b)(3)(ii)(The EA “[s]hall disclose the environmental effects of any adaptive management adjustments.”)

⁴⁹ Forest Service Handbook at 1909.15 §14.1- Adaptive Management available at https://www.fs.fed.us/im/directives/fsh/1909.15/wo_1909.15_10_Environmental%20Analysis.doc (“When using adaptive management, display the proposed action as an initial management action and a collection of possible adjustments or acceptable tools to be used to modify the initial action to achieve the intended effects. Disclose the site-specific effects of all of these actions, adjustments, or use of acceptable tools in the analysis along with the monitoring methods to be used to determine the effectiveness of each. If monitoring demonstrates that the intended effects are not being achieved through the initial management action, the action can be modified using one or more of the identified adaptive management actions in a way that better achieves the intended effects.”)

Even if the Forest Service does not view the Foothills project as an adaptive management project for purposes of these requirements, the fact remains that it intends to rely on input from the collaborative group to determine what monitoring is necessary and what alternative actions should be pursued if the initial actions prove unsuccessful. The collaborative group has not made these decisions, so they necessarily are not evaluated in the Final EA. Making these decisions outside the NEPA process is not only unlawful, but also means they will be made without the benefit of the supporting analysis and public engagement the statute requires.

d. The Forest Service Must Reorder Its Approach To Evaluate The Collaborative Group's Recommendations Through NEPA.

In deciding how to square the collaborative group's recommendations with the legal requirements of NEPA, the sequence of events is crucial. Many of the recommendations the Forest Service plans to seek from the collaborative group are perfectly appropriate (and lawful) uses of such a group – but only if those decisions are properly evaluated under NEPA. But here, the agency intendeds to seek recommendations from the collaborative group and has not committed to perform further, site-specific NEPA on those decisions. Making these decisions after the Final EA and outside of the NEPA process is unlawful.

Once again, this problem is not fatal to the Foothills Landscape Project and a straightforward remedy exists. The Forest Service should give the collaborative group the opportunity to make its recommendations, and then the Forest Service should evaluate those recommendations through future NEPA review. This approach was used to a successful and lawful result in the Cherokee National Forest's Dry Forests Restoration / Goal 17 project. But to proceed with the current approach and adopt collaborative group recommendations outside of the NEPA process would be unlawful.

IV. The Final EA Fails To Properly Consider The Foothills Landscape Project's Climate Change Impacts.

NEPA requires agencies to take a “hard look” at the environmental consequences of their actions, and broadly disseminate the relevant environmental information.⁵⁰ Climate change is not only the most pressing environmental challenge of our time, but the need for greater resilience in the face of a changing climate is cited as justification for the Foothills Landscape Project.⁵¹ Given its sweeping scope and undetermined duration, the Foothills Landscape Project has enormous potential to shape the CONF's contribution to climate change. Yet the Final EA's analysis of the “effects of the project on climate change through greenhouse gas [] emissions or

⁵⁰ Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350 (1989).

⁵¹ Final EA at 1, 37, and 45.

carbon cycling” falls short of the analysis required under NEPA.⁵² The Objectors previously raised concerns about the sufficiency of the Foothills EA’s review of climate change.⁵³

a. The Forest Service Must Prepare A Quantitative Analysis Of The Effects Of Its Actions On Carbon Stocks Or Explain Why That Analysis Is Infeasible.

Here, where carbon emissions from logging are reasonably foreseeable, quantifiable, and a result of the Forest Service’s decision, the agency is obligated to disclose those emissions quantitatively or explain why that analysis is infeasible.⁵⁴

There is no question that carbon emissions from the Foothills Landscape Project are foreseeable and quantifiable. The Forest Service has calculated the baseline carbon stocks on the CONF.⁵⁵ The agency recognizes that its action alternatives would “release carbon immediately.”⁵⁶ The Forest Service has developed tools for this precise purpose - “to help quantify forest carbon for planning and reporting.”⁵⁷ For example, using the Forest Vegetation Simulator tool the “carbon impacts of any simulated management, including prescribed fire, thinning, or salvage logging can be assessed.”⁵⁸ And the Forest Service has prepared quantitative analysis of carbon emissions from projects that are much smaller than the Foothills project. For example, the agency calculated the “aboveground and belowground carbon that will be lost from [construction of the Atlantic Coast Pipeline]” on the Monongahela National Forest—a project

⁵² See Final EA Climate Change Report at 1. A meaningful “hard look” at the project’s effects on carbon emissions may lead the agency to prepare an EIS.

⁵³ August 2021 Draft EA Comments at 35-39.

⁵⁴ WildEarth Guardians v. Zinke, 368 F. Supp. 3d 41, 71 (D.D.C. 2019) (finding “BLM failed to take a hard look at the environmental impacts of leasing because it failed to quantify and forecast aggregate GHG emissions from oil and gas development”); see also Sierra Club v. Fed. Energy Regul. Comm’n, 867 F.3d 1357, 1374 (D.C. Cir. 2017) (concluding that agency “should have either given a quantitative estimate of . . . greenhouse emissions . . . or explained more specifically why it could not have done so”).

⁵⁵ See Baseline Estimates of Carbon Stocks in Forests and Harvested Wood Products for National Forest System Units: Southern Region, Forest Service (2015) available at <https://www.fs.fed.us/climatechange/documents/SouthernRegionCarbonAssessment.pdf>.

⁵⁶ Final EA Climate Change Report at 12.

⁵⁷ See “Carbon Webpage,” Forest Service, available at <https://www.fs.usda.gov/managing-land/sc/carbon>.

⁵⁸ See “Tools For Carbon Inventory, Management, And Reporting,” Forest Service, available at <https://www.nrs.fs.fed.us/carbon/tools/>

that only affected 82 acres.⁵⁹ On these facts, the agency is obligated to quantitatively disclose the effects of its action on carbon emissions.

Nevertheless, the agency resists by explaining that “[c]limate models are applied on a regional or global scale and are not sensitive enough to predict changes at a forest scale, therefore a qualitative analysis was used to determine impacts.”⁶⁰ But this misses the point. The agency is not obligated to quantify the incremental effect of its action on global temperatures; it must quantify the effects of its action on “greenhouse gas [] emissions or carbon cycling.”⁶¹

Accordingly, CEQ recently instructed federal agencies to “consider all available tools and resources in assessing [greenhouse gas] emissions and climate change effects of their proposed actions, including, as appropriate and relevant, [CEQ’s 2016 Greenhouse Gas Guidance].”⁶² CEQ’s 2016 Greenhouse Gas Guidance cautions that “a statement that emissions from a proposed Federal action represent only a small fraction of global emissions is essentially a statement about the nature of the climate change challenge, and is not an appropriate basis for deciding whether or to what extent to consider climate change impacts under NEPA.”⁶³ Instead, agencies should “quantify a proposed agency action’s projected direct and indirect [greenhouse gas] emissions, taking into account available data and [greenhouse gas] quantification tools that are suitable for the proposed agency action.”⁶⁴

The Objectors recognize that the agency plans to complete tiered analyses in the future for some suite of implementation actions connected to the Foothills Landscape Project. Those analyses will be focused on discrete pieces of the overall Foothills project and, presumably, any quantitative analysis of “greenhouse gas emissions or carbon cycling” completed at that subsequent stage will be similarly limited. As a result, those analyses will not capture the full

⁵⁹ See Methodology and Assumptions Used to Calculate Aboveground and Belowground Carbon Lost from ROW Clearing, Trench Excavation, and Cut Sites along the ACP Proposed ROW in the Monongahela National Forest, Forest Service (2017) attached as Exhibit 5. The agency’s assessment of carbon lost through construction of the Atlantic Coast Pipeline is imperfect but bears out the agency’s ability to prepare quantitative analysis.

⁶⁰ Final EA Climate Change Report at 2.

⁶¹ Id. at 1.

⁶² National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions, Council on Environmental Quality, 86 Fed. Reg. 10252 (Feb. 19, 2021).

⁶³ National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions, Council on Environmental Quality (August 1, 2016) at 11 available at https://ceq.doe.gov/docs/ceq-regulations-and-guidance/nepa_final_ghg_guidance.pdf

⁶⁴ Id. at 4 (emphasis added).

effect of the overall project on carbon emissions and climate change and therefore cannot meet the agency's "hard look" requirement.

b. The Forest Service Must Evaluate And Disclose The Effects Of The Foothills Landscape Project On Carbon Storage.

"The hallmarks of a 'hard look' are thorough investigation into environmental impacts and forthright acknowledgment of potential environmental harms."⁶⁵ The Forest Service falls short of that standard here where it has failed to forthrightly disclose the effects of its action on carbon emissions. This problem culminates in the Forest Service's conclusion that the "action alternatives will likely result in overall lower carbon releases and higher elevations of sequestration overtime [*sic*] than the no action alternative."⁶⁶ This conclusion is misleading, if not factually incorrect.

Forest Service analysis shows that on the CONF, tree stands sequester carbon at increasing rates through approximately 35 years of age.⁶⁷ That rate then slowly declines over several decades to approximately 2/3 of the maximum rate which the stand then maintains for a century or more.⁶⁸ For example, around age 35 an oak/pine stand would reach a maximum sequestration rate of approximately 8 tons of carbon per year per hectare.⁶⁹ That rate would decline to approximately 5 tons of carbon per year per hectare around age 120 and then maintain that rate for decades.⁷⁰ By age 100, this stand would be storing over 500 tons of carbon.

The agency also estimates that in the decade after a stand is harvested at least half of its stored carbon is emitted to the atmosphere.⁷¹ This percentage could increase significantly depending on the end-use of the harvested wood.

⁶⁵ Nat'l Audubon Soc'y v. Dep't of Navy, 422 F.3d 174, 187 (4th Cir. 2005); see also Baltimore Gas and Elec. Co. v. Nat. Res. Def. Council, Inc., 462 U.S. 87, 97 (1983) (describing "twin aims" of NEPA).

⁶⁶ Final EA Climate Change Report at 15.

⁶⁷ See Assessment of the Influence of Disturbance, Management Activities, and Environmental Factors on Carbon Stocks of U.S. National Forests, General Technical Report RMRS-GTR-402, Appendix 4 at 55, Forest Service, (2019) available at <https://www.fs.usda.gov/sites/default/files/Appendix-4-NFS-Disturbance-Carbon-Assessment-Southern-Region.pdf>.

⁶⁸ Id.

⁶⁹ Id.

⁷⁰ Id.

⁷¹ See, e.g., Pisgah-Nantahala Forest Plan Revision Assessment Report, Forest Service (March 2014) at 83 (predicting that 57% of carbon in a timber sale is released to the atmosphere by year 10). The relevant excerpt of this document is attached as Exhibit 6.

As a result, harvesting the oak/pine stand would emit at least 250 tons of carbon to the atmosphere in the first decade. A new stand planted to replace the harvested stand would not sequester 250 tons of carbon for 35-50 years despite the fact that younger stands sequester carbon at a higher overall rate than older stands.⁷²

The bottom line is that the action alternatives evaluated in the Final EA will result in increased levels of carbon release for multiple decades at precisely the time when it is most critical that we reduce carbon emissions. The agency may choose to release that stored carbon through timber harvest but it must forthrightly disclose that effect to the public. The Final EA Climate Change Report's assertion that the "action alternatives will likely result in overall lower carbon releases" is only be true if we look at a timeframe of many decades to centuries. The assumption that "[h]arvesting and regenerating forests can also result in net carbon sequestration in wood products and new forest growth" is similarly only true on a many-decades-to-centuries timescale.⁷³ But in the near term, these statements are misleading and understate the project's likely contribution to climate change in the near term.

To support its conclusion, the agency assumes that "the potential for future carbon accumulation in forests is uncertain as projected increases in disturbance rates such as fire and large-scale insect mortality may release a fraction of existing carbon stocks."⁷⁴ Therefore, "[i]n some cases . . . removing carbon from forests for human use can result in lower net contributions to the atmosphere than if the forest was left unmanaged."⁷⁵ But the agency has not shown that these generic assertions are true in the Foothills project area. To the contrary, separate agency analysis predicts that through 2060, the ecoregion province where the Foothills project is located is likely to see a decline in total area burned through wildfire.⁷⁶ The agency is also candid that the CONF is affected "by frequent natural disturbances such as drought, fire, wind and ice storms, insects and disease, and hurricanes."⁷⁷ But of the forest disturbances forest that affect

⁷² This does not account for the additional carbon the older stand would have sequestered had it not been harvested.

⁷³ See Final EA Climate Change Report at 6.

⁷⁴ Id.

⁷⁵ Id.

⁷⁶ See "Projecting wildfire area burned in the south-eastern United States, 2011–60," J. Prestemon et al., International Journal of Wildland Fire 2016, 25, 715–729. Attached as Exhibit 7 and available at https://www.srs.fs.usda.gov/pubs/ja/2016/ja_2016_prestemon_002.pdf

⁷⁷ Final EA Climate Change Report at 3.

carbon stocks, 83% are attributable to timber harvest and only 3% each are attributable to fire and insects.⁷⁸

To be clear, the Objectors do not dispute that climate change will affect wildfire regimes and the frequency of insect outbreaks on the CONF. But we are aware of no evidence—and the Final EA does not include any evidence—suggesting that those events will become so destructive that “removing carbon from forests for human use [will] result in lower net contributions to the atmosphere than if the forest was left unmanaged.”⁷⁹ Timber harvest is the leading cause of carbon emissions from the forest and additional harvest is unlikely to result in “lower net contributions to the atmosphere than if the forest was left unmanaged.”

To meet its hard look requirement, the agency must forthrightly disclose that its action is likely to increase carbon emissions along any timescale relevant to avoiding the worst impacts of climate change and only has the potential to “result in overall lower carbon releases,” as compared to no action, over decades or centuries under the best-case scenario.

REQUEST FOR RELIEF

For the reasons stated, the Forest Service’s Final EA, Draft Decision Notice, and FONSI violate NEPA and NFMA. Accordingly, the Forest Service must amend these documents to clarify the scope of the programmatic review, reorder the process, and conduct the necessary NEPA review before proceeding with the Foothills Landscape Project.

Date: December 13, 2021

Signed for Objectors



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⁷⁸ Assessment of the Influence of Disturbance, Management Activities, and Environmental Factors on Carbon Stocks of U.S. National Forests, supra note 67, at 15.

⁷⁹ Final EA Climate Change Report at 6.