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SENT VIA ELECTRONIC MAIL; COPY VIA FIRST CLASS MAIL TO FOLLOW

Re: ***Notice of Intent to Prepare an Environmental Impact Statement for the Conservation and Restoration of Vegetation, Watershed, and Wildlife Habitat Treatments on Public Lands Administered by the Bureau of Land Management in the Western United States***

Dear Mr. Amme;

Northwest Environmental Defense Center (NEDC) and the Gifford Pinchot Task Force (GPTF) appreciate the opportunity to comment on the BLM's notice of intent to prepare an Environmental Impact Statement (EIS) on the *Conservation and Restoration of Vegetation, Watershed, and Wildlife Habitat Treatments on Public Lands Administered by the Bureau of Land Management in the Western United States Including Alaska* (hereinafter Western States EIS or proposed project). Our missions are to preserve and protect the natural environment in the Pacific Northwest. Our organizations monitor federal land management activities to ensure agency compliance with statutes such as the Endangered Species Act, National Environmental Policy Act, National Forest Management Act, and the Clean Water Act, among others.

We are very concerned about the BLM's Western States EIS because of the number of effects proposed for analysis and the scope of the project planning area. It is our belief that this project simply cannot be completed in one single document as BLM proposes—rather multiple EIS should be done for either ecosystems presenting similar concerns or for activities with similar effects. Our members regularly utilize BLM lands for a variety of purposes and have a strong interest in improving forest ecosystems. The proposed project threatens this interest, and it is our belief that there are numerous and significant effects and cumulative impacts that will be neglected by this proposed project.

I. Purpose and need.

When developing the projects that will be implemented under the BLM's Western States EIS, the BLM should ensure that the purpose and need of the project provides for ecosystem restoration and conservation separate and apart from commodity production. Currently, the BLM describes the draft EIS as providing:

a comprehensive cumulative analysis of BLM conservation and restoration treatments involving vegetation communities, watersheds, and wildlife habitats. It will also consider State-specific reasonably foreseeable activities, including hazardous fuels reduction treatments.

66 Fed. Reg. 52,148, 52,148 (Oct. 12, 2001). It is our position that this and other BLM programs should focus on rehabilitating the forest ecosystem—not on ecosystem degradation. Therefore, we request that BLM focus on achieving ecosystem conservation and restoration, and not on treatments that permit increased commodity production.

II. Discussion of effects

BLM lists ten issue areas of focus¹ for the proposed EIS. We will discuss each of these areas in terms of watershed and water quality, fire, logging, wildlife, and non-native species. In general, while the breadth of BLM's proposed project is alarmingly large—the breadth of the accompanying scoping notice is alarmingly small. As a result, we have numerous concerns about what will be covered by the Draft EIS and how the effects of the proposed actions will be adequately addressed.

A. Watershed and water quality issues.

We have several initial questions and concerns about the effects of the proposed project on the integrity of watersheds, as well as the likely impacts on water quality, in the western United States.

First, there is no question that the projects proposed by the Western States EIS will “significantly effect the human environment.” 42 U.S.C. 4332(2)(C). No doubt this is the BLM's understanding as well, as evidenced by its intent to move directly to the EIS stage. However, we seriously question the ability of the BLM to analyze the environmental impacts in the necessary detail: watershed and water quality effects across eighteen states. An environmental impact statement must analyze not only the direct impacts of a proposed action, but also the indirect and cumulative impacts of “past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions.” 40 C.F.R. § 1508.7; *see also* §§ 1508.8 (including ecological, aesthetic, historical, cultural, economic, social and health impacts) and 1508.25(a)(2), (c).

¹ (1) hazardous fuels reduction and treatment including mechanical treatments; (2) wildlife habitat improvement; (3) restoration of ecosystem processes; (4) protection of cultural resources; (5) watershed and vegetative community health; (6) new listings of threatened and endangered species and consideration of other sensitive and special status species; (7) new chemical formulations for herbicides deemed to be more environmentally favorable; (8) smoke management and air quality; (9) emergency stabilization and restoration; (10) watershed and water quality improvement.

Furthermore, NEPA requires full disclosure of direct, indirect, and cumulative economic impacts, identification of environmental effects and values in adequate detail so that they can be compared with economic and technical analyses, rigorous analysis of the benefits of implementing the “no action” alternative, and use of appropriate professional expertise. 40 C.F.R. § 1501.2(a); 1501.2(b); 1502.6; 1502.16; 1502.24; 1507.2(a); 1507.2(b); 1508.7; 1508.8; 1508.27. *How does the BLM intend to comply with NEPA when analyzing the direct, indirect, cumulative, past, present, and reasonably foreseeable future effects of proposed management activities on the watersheds and water quality across eighteen states?*

Second, the Notice of Intent states that the EIS will speak to “(1) management opportunities and treatment methods for noxious weeds and other invasive species, and (2) the conservation and restoration of native vegetation, watersheds, and wildlife habitat.” 66 Fed. Reg. 52,148, 52,148. It is axiomatic that the use of pesticides, fire treatments, and what the BLM calls “forest health treatments” will not in any way “restore” watersheds. Thus the two goals are, at the outset, at odds. *How does the BLM intend to ensure the fulfillment of the purpose and need of the proposed projects?*

Third, the eighteen states have different vegetation, soils, wildlife, fish, and water quality. *How does the BLM intend to effectively take the many variables into account?*

Fourth, the BLM must ensure compliance with the standards and guidelines of the Northwest Forest Plan in western Oregon, Washington, and northern California. The added responsibility of fulfilling this responsibility for project implementation in this geographic area will make it difficult for the BLM to group the western States together when analyzing alternatives. The Northwest Forest Plan uses an “Aquatic Conservation Strategy” (ACS) as the means to “restore and maintain the health of watersheds and aquatic ecosystems contained within them on public lands.” NFP Strategies and Guidelines, B-9. The ACS has four components: (1) Riparian Reserves: Lands along streams and unstable and potentially unstable areas where special standards and guidelines direct land use. (2) Key Watersheds: A system of large refugia comprising watersheds that are crucial to at-risk fish species and stocks and provide high quality water. (3) Watershed Analysis: Procedures for conducting analysis that evaluates geomorphic and ecologic processes operating in specific watersheds. This analysis should enable watershed planning that achieves Aquatic Conservation Strategy Objectives (ACSOs). Watershed Analysis provides the basis for monitoring and restoration programs and the foundation from which RRs can be delineated. (4) Watershed Restoration: A comprehensive, long-term program of watershed restoration to restore watershed health and aquatic ecosystems, including the habitats supporting fish and other aquatic and riparian-dependent organisms.

The ACS was developed to improve and maintain the ecological health of watersheds and aquatic ecosystems contained within them on public lands. The strategy would protect salmon and steelhead habitat on federal lands managed by the BLM within the range of Pacific Ocean anadromy. This conservation strategy employs several tactics to approach the goal of maintaining the natural disturbance regime. Land use activities need to be limited or excluded in those parts of the watershed prone to instability. The distribution of land use activities, such as timber harvest or roads, must minimize

increases in peak streamflows. Headwater riparian areas need to be protected, so that when debris slides and flows occur they contain coarse woody debris and boulders necessary for creating habitat farther downstream. Riparian areas along larger channels need protection to limit bank erosion, ensure an adequate and continuous supply of coarse woody debris to channels, and provide shade and microclimate protection. Watersheds currently containing the best habitat or those with the greatest potential for recovery should receive increased protection and receive highest priority for restoration programs. Any species-specific strategy aimed at defining explicit standards for habitat-elements would be insufficient for protecting even the targeted species. The ACS must strive to maintain and improve ecosystem health at watershed and landscape scales to protect habitat for fish and other riparian-dependent species and resources and restore currently degraded habitats.

To further these priorities, the Northwest Forest Plan delineates nine specific Aquatic Conservation Strategy Objectives (ACSOs) that are mandatory, unconditional requirements that must be met before any project can be approved. In order to approve a project, the BLM on lands within the range of the northern spotted owl must specifically find that the project is consistent with the nine ACS objectives. NFP Strategies and Guidelines, B-10. Those ACS objectives are: (1) Maintain and restore the distribution, diversity, and complexity of watershed and landscape-scale features to ensure protection of the aquatic systems to which species, populations and communities are uniquely adapted. (2) Maintain and restore spatial and temporal connectivity within and between watersheds. Lateral, longitudinal, and drainage network connections include floodplains, wetlands, upslope areas, headwater tributaries, and intact refugia. These network connections must provide chemically and physically unobstructed routes to areas critical for fulfilling life history requirements of aquatic and riparian-dependent species. (3) Maintain and restore the physical integrity of the aquatic system, including shorelines, banks, and bottom configurations. (4) Maintain and restore water quality necessary to support healthy riparian, aquatic, and wetland ecosystems. Water quality must remain within the range that maintains the biological, physical, and chemical integrity of the system and benefits survival growth, reproduction, and migration of individuals composing aquatic and riparian communities. (5) Maintain and restore the sediment regime under which aquatic ecosystems evolved. Elements of the sediment regime include the timing, volume, rate, and character of sediment input, storage, and transport. (6) Maintain and restore in-stream flows sufficient to create and sustain riparian, aquatic, and wetland habitats and to retain patterns of sediment, nutrient, and wood routing. The timing, magnitude, duration, and spatial distribution of peak, high, and low flows must be protected. (7) Maintain and restore the timing, variability, and duration of floodplain inundation and water table elevation in meadows and wetlands. (8) Maintain and restore the species composition and structural diversity of plant communities in riparian areas and wetlands to provide adequate summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of CWD sufficient to sustain physical complexity and stability. (9) Maintain and restore habitat to support well-distributed populations of native plant, invertebrate, and vertebrate riparian-dependent species.

These components are designed to operate together to maintain and restore the productivity and resiliency of riparian and aquatic ecosystems. Complying with the ACSOs means that an agency must manage the riparian-dependent resources to maintain

the existing condition or implement actions to improve conditions. The baseline from which to assess maintaining or restoring the condition is developed through a watershed analysis. Improvement relates to restoring biological and physical processes within their ranges of natural variability. The standards and guidelines are designed to focus the review of proposed and certain existing projects to determine compatibility with the ACSOs. The standards and guidelines focus on “meeting” and “not preventing attainment” of ACSOs. The intent is to ensure that a decision-maker must find that the proposed management activity is consistent with the ACSOs. The decision-maker will use the results of watershed analysis to support the finding.

In order to make the finding that a project or management action “meets” or “does not prevent attainment” of the ACSOs, the analysis must include a description of the existing condition, a description of the range of natural variability of the important physical and biological components of a given watershed, and how the proposed project or management action maintains the existing condition or moves it within the range of natural variability. Management actions that do not maintain the existing condition or lead to improved conditions in the long term would not “meet” the intent of the ACS and thus, should not be implemented.

How does the BLM intend to comply with the requirements of the Northwest Forest Plan where it applies?

In addition, the BLM must be prepared to address the following questions in the EIS in areas in which the Northwest Forest Plan applies:

- **Watershed Analysis**

Has a watershed analysis been performed?

Is the watershed analysis adequate and current?

Are roadless areas in key watersheds protected from new road construction?

Is road construction in key watersheds offset by decommissioning at least an equivalent amount of existing roads?

- **Riparian Reserves**

Have all intermittent streams been inventoried and included in riparian reserves?

Have all potentially unstable areas been included in riparian reserves?

Have seeps and springs been identified and protected?

Are the interim widths of the riparian reserves correct?

If interim riparian reserve widths are not used, has an adequate watershed analysis been performed to justify different widths?

Are final riparian reserve boundaries adequate to protect aquatic species and ecosystems?

Are final riparian reserve boundaries adequate to protect terrestrial species and ecosystems?

Will any new roads be built through riparian reserves?

Are other management activities in riparian reserves consistent with the Plan’s aquatic conservation strategy?

Fifth, on lands throughout the Columbia Basin, we point out that the BLM must comply with the requirements of: the Implementation of Interim Strategies for Managing Anadromous Fish-Producing Watersheds in Eastern Oregon and Washington, Idaho, and

portions of California (PACFISH), the Inland Native Fish Strategy (INFISH), and the Inter-Columbia Basin Ecosystem Management (ICBEMP). PACFISH calls for a long-term strategy to be developed and evaluated for slowing the degradation and beginning the restoration of aquatic and riparian ecosystems for anadromous fish. The Habitat Conservation Areas of PACFISH should be followed, expanded upon, and certainly analyzed in BLM's draft EIS. INFISH calls for long-term management direction to protect habitat and populations of resident native fishes outside anadromous fish habitat. ICBEMP covers Forest Service and BLM "administered lands in those portions of the Columbia River Basin within the United States and east of the Cascade crest and those portions of the Klamath and Great Basins in Oregon ("The Basin")." Quigley, T.M., and H. Bigler Cole, *Highlighted scientific findings of the Interior Columbia Basin Ecosystem Management Project*, Gen. Tech. Rep. PNW-GTR-404, Portland, OR: U.S. Department of Agriculture, Forest Service, Pacific Northwest Research Station. U.S. Department of the Interior, Bureau of Land Management 34, (1997), available at <www.environment.pdx.edu/icebmp.htm>.

Sixth, on lands used predominately for grazing, the BLM should analyze the water quality impacts that cattle and other livestock cause or contribute to in riparian areas. These contributions occur either directly by the livestock utilizing the water body itself or indirectly through the destruction of vegetation surrounding the water body.

Finally, the Clean Water Act imposes numerous requirements on the BLM that the agency must address in the EIS. Sections 313 and 303 pose difficulties for the BLM in implementing its vegetation treatment across eighteen states.

Section 313 of the Clean Water Act (CWA) states that all federal agencies "shall comply with all Federal, State, interstate, and local requirements . . . respecting the control and abatement of water pollution . . ." 33 U.S.C. § 1323(a). The Ninth Circuit has interpreted this language to mean that the U.S. Forest Service must comply with all state water quality standards when carrying out its road-building and logging activities. *Northwest Indian Cemetery Protective Ass'n v. Peterson*, 795 F.2d 688 (9th Cir. 1986). Therefore, the BLM must also comply with all state water quality standards in carrying out its prescribed fire activities, herbicide application, and "forest health" treatments. *How does the BLM intend to comply with the water quality standards of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, North Dakota, South Dakota, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and Wyoming?*

Since the BLM is a federal agency, like the Forest Service, the BLM cannot claim that the agency's own policies and regulations supersede state water quality standards. In *Northwest Indian Cemetery*, the Forest Service claimed that its Best Management Practices (BMPs) were the only water quality standards applicable. *Northwest Indian Cemetery*, 795 F.2d at 697. The Ninth Circuit held that adherence to BMPs did not automatically ensure that state water quality standards were met. The Ninth Circuit recently reiterated this standard. *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1214 (9th Cir. 1998). Accordingly, the BLM must describe how implementation of the projects will comply with the water quality standards in all eighteen states.

In addition, since Section 313 of the Clean Water Act (CWA) requires federal agencies to comply with state water quality standards, the BLM must also comply with the eighteen states' approach to TMDLs. Oregon provides just one example of the complexity of ensuring compliance with state water quality standards. In Oregon, once a river or stream is designated as a non-point source (NPS) Total Maximum Daily Load (TMDL), Section 303(d) requires that it receive a "heightened level of treatment or watershed management" to protect beneficial uses. Oregon DEQ website Nonpoint Source TMDL Guidance p. 4 (Guidance). This requires that the BLM work with Oregon's DEQ to develop a Water Quality Management Plan (WQMP) that represents a "thorough, objective-driven, adequately funded, fully monitored, long-term, watershed enhancement approach." Guidance at 3; DEQ website, TMDL Fact Sheet - Developing Plans to Protect Water Quality. p. 3. Once a water body is placed on the 303(d) list, it can only be removed after a "water quality management plan is approved for implementation as an NPS TMDL." Guidance at 6.

The NPS TMDL must contain the minimum elements of such a plan which include:

1. Condition Assessment and Problem Description
2. Goals and Objectives
3. Proposed Management Measures
4. Timeline for Implementation
5. Identification of Responsible Participants
6. Reasonable Assurance of Implementation
7. Monitoring and Evaluation
8. Public Involvement
9. Maintenance of Effort Over Time
10. Discussion of Costs and Funding

Guidance at 7. The Condition Assessment and Problem Description must contain a thorough description of the situation, including:

1. Water quality conditions
2. The water quality standards and criteria of concern
3. The beneficial uses being impaired
4. The types of pollution causing the problem
5. The sources of this pollution in terms of
 - a. Location, land management practice, natural cause, or other source
 - b. The relative contribution of each source
6. The loading capacity of the waters for the pollutants of concern.

Guidance at 8. The BLM must refer to "past" or "historic" activities as the cause of water temperature and other water quality violations in project areas. Such an approach will help to determine what the relative contribution of pollution sources are and what will be necessary to correct the problem.

In addition, the BLM must describe "the proposed watershed improvement measures, including the specific activities or collection of activities and how they will control the pollution problem and achieve the goals and objectives." Guidance at 11.

Finally, the Monitoring and Evaluation element of an approved water quality management plan must contain a "process for monitoring plan implementation and effectiveness, and for adjusting the WQMP over time as suggested by monitoring results." Guidance at 15. *How does the BLM intend to comply with Oregon's regime?*

In states other than Oregon, other TMDL programs apply to the BLM's activities. Section 303 compels States to establish total maximum daily loads (TMDLs) for their waters. 33 U.S.C. § 1313(d). The States simply divide up the total amount of each pollutant that both non-point sources and point sources may release in the corresponding waters. *How does the BLM intend to comply with TMDLs that are currently determined for the waters in each of the eighteen States? How does the BLM intend to comply with TMDLs that will be determined for the waters in each of the eighteen States in the future?*

B. Fire treatments.

The scoping notice states that one of the issues to be addressed is "hazardous fuels reduction and treatment." We encourage the BLM to use prescribed burns and other fire treatments in order to restore and conserve native ecosystems.

1. *Prescribed fire.*

We encourage the use of prescribed fire treatments to restore native ecosystems where appropriate. Prescribed fire, when applied based on site-specific environmental analysis, can greatly reduce the risk of catastrophic wild fire and bring ecosystems closer to a natural fire regime in ecosystems where fire played a historically important role. For example, in drier ecotypes heavily degraded by logging, prescribed fire is an effective tool to control under story conditions. In areas that currently have old growth or late successional characteristics, prescribed fire can be used in lieu of physical removal of excess fuel. Low impact, non-commercial thinning may be effective, but only if used in conjunction with prescribed burning.

Fire suppression is often cited as the main cause of the current deviation from a natural fire regime. For close to a century, the Forest Service and BLM have effectively controlled the spread of wildfire in the intermountain west and eastern cascades. Between the early 1930s and 1970, the number of acres consumed by wildfire in the lower 48 states has dropped from 40 to 50 million acres to 5 million acres. *Managing the Impact of Wildfires on Communities and the Environment: A Report to the President In response to the Wildfires of 2000*, September 8, 2000 at 11. The policy of fire suppression has caused changes in the natural structure of forests specifically a build-up of under brush and small diameter trees that would typically be removed by low intensity wildfire. As a result of this fuel build up, wildfires are far more intense and fatal to trees that form the forest canopy. However, fire suppression is not the only factor contributing to the dangerous fire conditions in our forests; large-scale commercial logging is the primary cause of ailing forest ecosystems.

Commercial logging has dramatically altered the forests of the intermountain west and eastern cascades in ways that promote hazardous wildfire conditions. First, logging removes the forest canopy, the large trees that are "insurance for the future – they are critical to ecosystem resilience." Dr. Leon Nuenschwater. et al, Testimony before the

Subcommittee on Forests and Forest Health, August 2000. Despite charges from the timber industry that the decline in commercial logging has resulted in more forest fires, the evidence shows that the opposite is true: in fact, fewer acres burned in areas where logging was limited. Congressional Research Service, August 2000.

Contrary to the timber industry's argument that logging will prevent wildfire, more acres burned on average during the 1980's during the peak of commercial logging than during either the 1970's or the 1990's when fewer acres were logged. Managing the Impact of Wildfires at 11. We endorse the previous Administration's policy in regard to fire management when it stated, "[T]he Administration's wildland fire policy does not rely on commercial logging or new road building to reduce fire risks . . . [t]he removal of large, merchantable trees from forests does not reduce fire risk and may, in fact, increase such risk." Id.

The second way logging increases fire hazards is by promoting the rapid growth of densely packed small trees over a wide area and by leaving small combustible materials such as twigs and needles. The Congressional Research Service concluded that, "the concentration of these fine fuels on the forest floor increases the rate of spread of wildfires." Congressional Research Service, Memorandum to Senator Ron Wyden, "Timber Harvesting and Forest Fires." (August 22, 2000). Likewise, the National Research Council concluded that logging can create dangerous fuel build up. Id.

Third, logging roads and soil compaction from logging equipment destroy the ability of soils to trap and hold moisture. This, in turn, creates drier conditions on the ground. As former Secretaries Babbitt and Glickman reported to President Clinton, "[f]ires are almost twice as likely to occur in roaded areas as they are in roadless areas." Managing the Impact of Wildfires at 12. Of the 89 million acres of National Forest System land that the Forest Service has identified as having a moderate to high risk of catastrophic fire, fewer than 16% are in inventoried roadless areas. Id. Logging roads and equipment promote the spread of invasive species, which the Forest Service and BLM have identified as major factor in the spread of catastrophic wildfires.

Because commercial logging has caused such dramatic and dangerous changes in natural forest ecosystems, the BLM should place a moratorium on its timber sale program, at the very least, until restorative efforts have reduced the risk of catastrophic wildfire in previously logged areas. This "passive restoration," "a cessation of . . . activities that are causing degradation or preventing recovery," has been recognized by the National Research Council as an initial step toward restoration. Kauffman, J. Boone, R.L. Beschta, N. Otting and D. Lytjen, *An Ecological Perspective of Riparian and Stream Restoration in the Western United States*. *Fisheries*, vol. 22, no. 5 (1997); National Research Council, *Upstream: Salmon and Society in the Pacific Northwest*. *Committee on Protection and Management of Pacific Northwest Anadromous Salmonids* (1996).

Regarding active restoration, timber sale planners have offered commercial logging as a solution for the ecological damage caused by previous logging activities. Clearly, this is an untenable position. Timber sale planners for the BLM and Forest Service routinely propose restoration projects in conjunction with commercial logging sales. This practice must cease. Ecologists, biologists, and agency experts must plan

BLM restoration projects on fire ecology. Otherwise, the BLM will merely perpetuate the current poor conditions of western forests. Prescribed fire and the limited use of non-commercial thinning are key tools in the restoration process. We have the following recommendations for restoration efforts using prescribed fire:

- Take account of varying conditions at the landscape level and protect sensitive and rare habitats such as old growth and riparian areas;
- Avoid thinning of riparian areas;
- Focus restoration efforts on low-elevation, dry forest types;
- Retain all large, old (pre-settlement) trees and focus thinning efforts on the small diameter classes;
- Use prescribed fire to treat thinning slash and other surface fuels
- Avoid road building in restoration efforts and protect roadless areas
- Concentrate efforts near the wildland-urban interface
- Monitor restoration efforts over the long-term and adapt restoration efforts to meet changing conditions.

2. *Restoration Efforts Must Consider Different Ecosystem Types and Conditions.*

BLM should adapt restoration plans to different ecosystem conditions rather than adopt a one-size-fits-all approach to restoration. Lower elevation dry-site forests and rangelands have been particularly hard-hit by human activities. Past logging has removed many of the old-growth trees that composed the “park like” stands of trees that early settlers described. Cattle and sheep grazing has disturbed the seedbed for ponderosa pine and removed fine fuels that allowed the spread of frequent low intensity fires. Swetnam, T.W., C.D. Allen and J.L. Betancourt, *Applied historical ecology: using the past to manage the future*, Conservation Biology 14 (1): 18-30, (1999). Thus, when fires do strike these drier forests, the fires tend to be high intensity “crown fires,” or fires that travel upward and spread through the canopy.

Mid-elevation forests vary greatly in species type and structure. Areas with cool and moist conditions may be dominated by grand fir, white fir, less fire and drought resistant species. Douglas fir, western larch and ponderosa pine are also found at mid-elevation. The fire regime of these forests is “mixed,” meaning that fire intensity can vary depending on such factors as fuel buildup, weather conditions, and topography.

High elevation forests are dominated by subalpine fir, Englemann spruce, mountain hemlock and lodge pole pine. While fuel loads for these forests may be large, high intensity stand-replacing fires are infrequent, so infrequent that fire suppression has only prevented one fire cycle. Agee, J.K., *The severe weather wildfire – too hot to handle?* Northwest Science, Vol. 72 Special Issue, (1998). The 1988 Yellowstone fires have shown that the environmental impacts of wildfire in high elevation forests are generally minimal, despite high fuel loads. Romme, W.H. and D.G. Despain, Historical perspective on the Yellowstone fires of 1988. Bioscience 39 (10): 695-699 (1989).

The BLM should base its restoration strategy on a multidisciplinary approach. All too often, government land managers focus only on forest structure while they ignore watersheds. Timber sale planners frequently target large trees in degraded watersheds for

commercial thinning. They characterize timber sales as restorative efforts, claiming that the forest structure must be altered to obtain the historic range of variability. Meanwhile, commercial logging increases the environmental stress on already degraded watersheds by causing more stream sedimentation and higher rates of runoff. However, as the leadership of BLM and Forest Service have acknowledged, commercial logging will not restore natural fire regimes and may, in fact, increase the risk of catastrophic wildfires.

The BLM should employ a multifaceted approach to restoration that simultaneously considers the integrity of watersheds, forest structure, and wildlife habitat. However, the current proposal may take this recommendation one step too far and mask the restoration needs of specific watersheds and ecosystems by analyzing too large a project area. We recommend that NEPA analysis for fire restoration projects be conducted at a scale that will consider the ecosystem and site-specific effects of the project.

Furthermore, reducing the risk of fire cannot be the only priority of restoration efforts. The BLM must also consider habitat conditions for fish and wildlife. Stand modifications that only address fire risks can degrade watersheds and wildlife habitat. Rieman, B.E. and Clayton, *Wildfire and native fish: issues of forest health of sensitive species*, Fisheries 22 (11): 6-15 (1997). An example of how uncharacteristic forest structure is beneficial to wildlife occurs on the eastside forests of the Cascades. Fire suppression has created a closed canopy forest structure that is atypical of drier forests, yet these forests are vital to the survival of the northern spotted owl and other late-successional associated species. In many degraded areas, efforts to reduce canopy density may cause more harm than good; watersheds and imperiled fish species simply cannot endure the deleterious effects of commercial thinning.

3. *Thinning in Riparian Areas Should Be Avoided.*

Riparian areas are more difficult to manage than the surrounding uplands, because of the complexity of the plant and animal communities that depend on them. Treatments that may be appropriate for upland areas should be avoided in riparian zones. Riparian areas tend to have a greater concentration of wildlife. Migratory birds in particular depend mainly on riparian habitat. Thinning should be limited in riparian areas because of the risk of sedimentation from ground disturbing activities. Gregory, S.V., Riparian management in the 21st Century in Kohm, K.A. and J.F. Franklin, eds., *Creating Forestry for the 21st Century*, Island Press, Washington D.C., (1997). Logging or thinning may also reduce shade, which will result in higher stream temperatures. Where the BLM determines that thinning is an appropriate treatment in riparian areas, the larger trees should be left in the flood plain or placed in stream channels to promote fish habitat. Prescribed fire may be the most appropriate restoration tool if it is applied on the basis of a site-specific analysis. Kauffman, J. Boone, R.L. Beschta, J. Beuter, S. Gregory, L. Kellogg, W. McComb, J. Sedell, T. Schowalter and S. Tesch, *Forest Health and Timber Harvest on National Forest in the Blue Mountains of Oregon. A Report to Governor Kitzhaber*, (1997).

However, BLM should avoid prescribed burning in the spring because the smoke may harm migratory birds. In addition, reptiles may be adversely affected because they

are more widely distributed in the spring as opposed to the summer when they congregate near bodies of water or streams.

Prescribed fire can achieve restoration goals without the need for thinning in some forest types. Agee, J.K. and M.H. Huff, Structure and process goals for vegetation in wilderness areas, in R.C. Lucas, compiler 17-25 (1986), Proceedings—National wilderness research conference: current research, 23-26 July 1985, Fort Collins, Colorado. USDA Forest Service General Technical Report INT-212. Thinning alone will not accomplish ecological goals without the use of prescribed fire. Weatherspoon, C.P., Fire-silviculture relationships in Sierra forests in Sierra Nevada Ecosystem Project: Final Report to Congress, Vol. II, Chapter 44, University of California, Centers for Water and Wildland Resources, Davis California, (1996). Thinning by itself will not produce the same ecological benefits as fire. National Resource Council, Upstream: Salmon and Society in the Pacific Northwest. Committee on Protection and Management of Pacific Northwest Anadromous Salmonids (1999). Thinning may actually increase the risk of fire when the slash is not treated properly. (Agee 1996).

4. *Roadless Areas Should Be Avoided.*

Roadless areas are more ecologically resilient than their roaded counterparts. USDA Forest Service and USDI Bureau of Land Management, Eastside Draft Environmental Impact Statement, Interior Columbia Basin Ecosystem Management Project, USDA Forest Service, Pacific Northwest Region (1997). Consequently, priority for restoration projects using proscribed fire and other restoration methods should focus mainly on roaded areas. This makes sense considering the close proximity of roaded areas to rural communities and the limited resources of BLM. Avoiding road building will have the added benefit of limiting the spread of invasive species.

5. *Monitoring Is Crucial.*

Clearly, further research is needed to insure that restoration efforts are effective in any given location. Monitoring must play a central role in any restoration effort. Restoration planners will need to follow up restoration efforts especially in previously logged areas where underbrush and invasive species can accumulate quickly. In heavily degraded areas, restoration will be a slow process requiring several prescribed fire treatments over time before natural fire regimes can be restored. Monitoring can supplement scientific research and provide important opportunity for case studies. With proper monitoring and research, BLM will apply prescribed fire treatments more effectively in the future.

C. Mechanical treatments.

We recommend that several issues relating to logging be included in the Draft EIS. By discussing and analyzing these issues, the EIS will more effectively achieve its purpose of “restoring” BLM lands. Detailed scientific analysis of each of these issues should be completed and discussed in the EIS in order for it to meet its purpose.

1. Introduction of Invasive Weeds and Species.

The BLM should use this EIS as an opportunity to address the causes of ecosystem degradation through invasive weeds. Instead of just focusing the EIS upon treating the existing problem, the EIS should also discuss and analyze the causes of the problem. Without this analysis of the underlying causes of invasive weeds and species, the EIS will be a monumental waste of agency resources because a future study will need to be commissioned. The EIS should include recommendations on how to remedy these underlying causes so that local land use planners can make informed decisions about the proper way to prevent the amplification of these problems.

Logging and the use of logging trucks in particular cause significant environmental damage, including the introduction of invasive weeds and species. Invasive weeds are usually spread by soil disturbance or stress on ecosystems. Commercial logging operations and their associated road building activities cause catastrophic levels of soil disturbance. Logging is particularly egregious because of the potential for seeds of invasive weeds and species to be brought into sensitive areas on the tires of logging trucks.

These invasive weeds and species thrive on newly disturbed areas, such as new roads or intensive harvest areas. Logging trucks transport seeds to areas not yet affected by noxious weeds and facilitate establishment of weed species by disturbing soil. Logging trucks should only be allowed on designated routes that have undergone a thorough impact analysis, including designation of mitigation measures such as revegetation of any new roads constructed. The EIS must discuss the adverse effects of logging and road building through the introduction of invasive weeds, and make recommendations on how to minimize those impacts or prevent them from ever occurring.

2. Road Obliteration and Revegetation.

The EIS also should discuss the use of road obliteration and revegetation as an effective mitigation measure to halt the proliferation of noxious weeds. Road obliteration and revegetation is one of the most effective ways of restoring ecosystems and controlling noxious weeds. Because noxious weeds thrive in disturbed areas, a key component of “restoring” ecosystems on western BLM lands should be the revegetation and obliteration of logging roads across the entire range of the EIS. Instead of focusing analysis and resources on applying harmful and toxic chemicals, the EIS should focus on natural mechanisms of combating noxious weeds. The EIS should recommend that no new logging roads be built unless sufficient evidence exists that funding will be available to revegetate the roads upon completion of the project. In addition, the EIS should recommend that restoration projects should focus on the revegetation and regeneration of the thousands of miles of existing roads upon BLM land as a major component of the “restoration” plan.

3. Age and Diameter Restrictions.

Late-successional and old growth forests are highly resilient ecosystems that naturally eliminate noxious weeds and invasive species. Because of the expansive

canopy cover in these forests, sufficient sunlight does not reach the forest floor for noxious weeds to proliferate. Consequently, the EIS should impose DBH and/or age limitations on any proposed “restoration” projects implemented based upon the EIS. No projects should be permitted in areas where the average tree is 21 DBH or higher, and harvest of individual large diameter trees should be prohibited.

In addition, the EIS should prohibit logging activities in areas defined as “old growth” by the scientifically accepted definition of old growth in the specific project area. These prohibitions are necessary to prevent projects labeled as “restoration” to be done in areas where restoration is not needed, such as late-successional and old growth forests. The EIS should also include scientific analysis of these forests’ capabilities at naturally resisting the spread of noxious weeds.

4. *Urban-Wildlands Interface.*

The EIS should evaluate the reintroduction of fire and other natural processes in this EIS as a means of combating noxious weeds. The BLM’s century long obstruction of the natural ecological process of wildfires has been a direct cause of the problem of noxious weed proliferation. Wildfires are one of nature’s means of combating noxious weeds. The EIS should discuss the ecological advantages of allowing natural wildfires to help remedy the problem of noxious weeds.

Any logging projects targeted at preventing wildfires should only be conducted in the urban-wildlands interface zone. This is the 200-foot area directly contiguous to populated areas. Targeting efforts only in this area is the most effective way to protect human life, which is the only laudable goal of fire-prevention. Fuels-reduction that includes road construction and reconstruction increases motorized vehicle use, and livestock access may actually cause more harm by spreading invasive species and increasing the likelihood of fire starts. Prescribed burning must be done very carefully so as not to increase the spread of noxious weeds.

In conclusion, this EIS should be very sensitive to the issue of logging in its analysis. This analysis should explicate the effects of logging on noxious weed introduction and make recommendations on how to minimize these effects. The EIS should include action alternatives that truly focus on restoration, not on commercial extraction. In order to achieve its laudable purpose of decreasing noxious weed populations on BLM lands in the western states, the EIS must discuss logging’s role as a cause of these high noxious weed populations and recommendations for minimizing the future impacts of logging on BLM lands.

D. Wildlife related issues.

The EIS must adequately identify impacts that the projects will have on plant and wildlife species (including threatened and endangered species) due to direct habitat loss, fragmentation of important biological corridors, application of herbicides, use of prescribed fire, grazing impacts, and indirect impacts from increased human activity and decreased seclusion.

It is the stated policy of Congress that all Federal departments and agencies “shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of [this] purpose.” Endangered Species Act of 1973, 16 U.S.C. § 1531(c)(1). The Supreme Court has clearly restated congressional policy, observing that, “The plain intent of Congress in enacting this statute was to halt and reverse the trend toward species extinction, whatever the cost.” *Tennessee Valley Authority v. Hill*, 437 U.S. 153, 184 (1978). The BLM’s activities must be consistent with the congressional mandate of the ESA.

Under the ESA, the BLM has the responsibility to “insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species....” The projects are likely to adversely affect threatened and endangered species. The projects are likely to significantly exacerbate the degraded habitat conditions for these species that already exist in various portions of the eighteen states.

To adequately protect against jeopardy, the BLM must survey for all threatened or endangered species. The reasons for this are many. First, it is impossible for the BLM to determine whether there are significant impacts to proposed or listed species without analyzing the projects in terms of impacts to these species. Endangered Species Act of 1973 (ESA), 16 U.S.C. §§ 1531-1544 (1994). Second, the ESA requires the BLM to use the best available scientific and commercial data in assessing the impacts to species, which includes surveying for them. 16 U.S.C. § 1536(a)(2). Unless the BLM has population studies, it is precluded from determining that the project is not likely to adversely affect the listed species under section 7 of the ESA. *Id.* § 1536(b).

The BLM must also consider that since its past activities have put several species on the endangered and threatened species’ list, it must alter its activities to avoid causing nonlisted species to trend towards listing, and listed species to trend toward jeopardy. *Sierra Club v. Martin*, 168 F.3d 1 (11th Cir. 1999).

The draft EIS must answer the following questions among, others: *What endangered and threatened species are found in the planning areas? Are there state listed as well as federally listed species in the areas? How will the planned projects remain consistent with the state Endangered Species Act? How will the BLM assess the impacts of proposed projects on migratory birds? How will the project provide for species that are listed in the future?*

Restoration efforts should include establishing viable populations of extirpated and sensitive native species, such as the sage grouse, white-tailed prairie dog, black-footed ferret, Columbia spotted frog, Washington ground squirrel, and desert yellowhead. Only native species should be used in restoration projects.

E. Nonnative species and ecosystem concerns.

We believe that impacts from exotics species are seriously degrading much of the land that would be covered under the proposed EIS and that the EIS should consider major steps to address the spread and establishment of such species. The proposed EIS

should contain a discussion and analysis on a number of issues related to exotic weeds including:

1. An analysis of the current status of exotic weed invasions.

This analysis would basically provide information about the current status of the exotic weed problem in the area covered by the EIS. This analysis should provide information about the types of exotic species that are found within the planning area and a description of the threats that each of these species pose. While we recognize the potential threats of exotics on grazing, BLM's analysis should not limit its analysis to weeds that conflict with grazing but should consider how exotic weeds are affecting aquatic and terrestrial habitats and the species that depend on such habitats. The analysis should contain a special focus on exotics that are threatening sensitive, threatened and endangered species of plants, animals and other species.

The analysis should also contain a description of the locations where such species are found. While we recognize the limited information that does exist about existing weed populations, field personnel should be encouraged to use the EIS as an opportunity both to gather existing data and gather new information in something approaching a "District Status Report on Exotic Weeds." Because members of the public and entities outside the BLM often have first hand information about existing weed populations that the BLM does not, it would be good to actively solicit information from the public about known or suspected weed populations as a part of this effort.

This information should be the base of a comprehensive weed database and mapping system that could hopefully be digitalized in a GIS format and viewed on line at a host of spacial scales. While the first edition of this map and database may leave lots of gaps, this database and map could be regularly updated when new information becomes available. In fact, the mere existence of such a digitalized map and database could be a real incentive for people concerned about the spread of exotics to record field information about the status and location of exotic weeds. When one considers what a multi-layered GIS database with a different layer for distinct weed species could look like after it was updated with data for the next five or ten years, it is possible to see this as an indispensable management tool that would help identify priorities and develop weed management and/or eradication strategies.

2. Identifying priority species and areas for control.

This analysis should also identify some priority weed species of concern, as well as, some priority areas for focusing weed control efforts. The identification of priority species should not be based solely on potential threats to grazing resources, but should instead consider the broad spectrum of impacts that a given exotic weed may have on native ecosystems. While a numerical ranking is not likely appropriate, BLM should consider categorizing various weed species in different threat categories for the project area. This categorization should be based on factors, such as, the biological threats posed by a species, the general rate at which it could spread and the locations and status of current populations.

The EIS should also identify priority areas in which to focus control efforts. The EIS should both identify specific areas that are a priority for control and establish a more general strategy for control that will most effectively reduce the harm to the ecosystem from exotics. More specifically, the EIS should articulate a strategy that places a large emphasis on rapidly responding to new invasions before species new to a given area are able to establish and spread. BLM should focus on very quickly working to control a weed population when its size is small and should not wait until the population grows to the point it can no longer be ignored. For obvious reasons, the difficulty in eradicating a specific population of weeds grows dramatically once a seed bank is established.

BLM's prioritization strategy should also focus resources on eradicating smaller outlying populations of weeds that pose a threat to previously uninvaded habitat, while working to control seed production in larger more established populations. While this strategy could of course vary depending on the species, NEDC believes that BLM should place a high priority on keeping areas that currently lack some of the most threatening exotic species weed free. As a part of this effort, BLM should identify priority weed management areas where BLM places a high priority on eradicating and controlling weed species and manages such areas with the goal of maintaining native species.

3. Develop a process for survey and rapid response.

Whether a given eradication effort will be successful is often dependent on how quickly the eradication is started after a given invasion occurs. For this reason, the EIS should identify a process and the mechanisms through which BLM will increase and formalize its weed survey efforts and develop a rapid response plan to quickly control newly identified weed populations. Given BLM's limited resources, this process should include a focus on soliciting involvement of the public and other state, federal and private entities in identifying known or suspected populations of priority exotics.

4. Carefully review of BLM's own actions that lead to the introduction and spread of exotics.

Many actions that cause the introduction and spread of weeds are the direct and predictable result of BLM management decisions that for many years have largely ignored the potential effects of invasive weeds. The limited mitigation measures that have been required for planned timber sales, grazing leases and ORV projects have typically been weak and ineffective. BLM has failed to show that it is willing to reconsider how it does business as a part of the effort to protect against new weed invasions and reduce the spread of existing weed populations and will hopefully use the proposed EIS as an opportunity to do so.

While we do not necessarily oppose the judicious use of herbicides to control exotic weeds where the ecological benefit of such use will outweigh the costs, this position only makes sense if BLM itself is willing to radically re-evaluate how it address the effects that its own actions have on the spread and establishment of exotic weeds. The soil disturbance and introduction of weed vectors that accompany the issuance of grazing leases, timber sales, ORV use, road construction and other actions that regularly occur on BLM are the principle causes of the current invasive crisis within the EIS

planning area. The EIS must both acknowledge this fact and articulate a policy through which BLM will take dramatic steps to reduce its role in these problems.

The EIS should specifically address steps that it will take to modify currently allowed uses in areas where high-risk invasive populations are found. If, for example, a given population of invasives is found near the trail head of an OHV trail, BLM should have a policy in place that is articulated in the proposed EIS where that trailhead is at the very least temporarily closed while the population of invasives is being controlled. Similarly protective measures should be taken in any area where a BLM approved activity will cause the spread and exacerbation of an identified weed threat. Without taking basic steps to control the spread of known weed populations, the existing impacts from exotic weeds will only become greater as will the dire effects on native habitats and species.

BLM should also seriously consider ending its use of exotics, such as, crested wheatgrass in fire recovery and other re-vegetation efforts. While the use of such exotics may have been acceptable in 1950, BLM should be completely embarrassed that it continues to use such species today. The EIS should identify the exotics that BLM uses today and detail the quantities and locations of such use. Additionally, the EIS should consider the impacts of such use, as well as, alternatives that would bring BLM into the 21st century in so far as re-vegetation. Simply saying in project EAs that BLM will use natives species to re-seed “when available” means little if the “when available” comes with a pricing condition that ensures native seeds will almost never be “available.” Using native seeds is obviously more costly in the short term, but the cost to native ecosystems of using exotics is far more costly in the long-term.

5. Control methods.

The EIS should also clearly describe proposed methods of control including the type of mechanical equipment BLM proposes to use, as well as, any herbicides or pesticides that are proposed for use. While we are generally opposed to the release of toxic herbicides into the environment, we recognize that in some circumstances the careful use of such herbicides can help avert a potentially much greater threat to habitat that can be caused by exotic species. Herbicides, however, should not be viewed as a replacement for what we see as BLM’s obligation to ensure that its actions do not cause the spread or introduction of invasive weeds.

In discussing the use of herbicides, the proposed EIS should discuss and describe the specific herbicides that are proposed for use and the habitat types or specific locations where such herbicides would be used. The EIS should also describe the potential effects of the herbicides on non-target species and specifically analyze the persistence of such herbicides in the environment after their use. We also believe that it is critical for BLM to, whenever herbicides will be used, to provide a clear justification for such use that articulates why the ecological benefits of applying herbicides will outweigh the environmental costs of not using such control methods. Additionally, alternatives to chemical control should be discussed and BLM should explain why such uses were not selected.

Although we believe BLM should consider various methods of bio-control, we believe are highly concerned about the impacts of introducing yet another non-native species to control an existing weed species. There is a good argument that this type of biological pollution, which from the moment it is released into the environment can grow in numbers and impact, can actually pose a greater threat to native ecosystems than certain types of chemical control, and any use of bio-control should be thoroughly supported by careful analysis.

It is important to emphasize again, however, that we do not believe that BLM should view herbicide or any other weed control method as an excuse through which it can attempt to control the effects of poor management decisions that create conditions in which invasives can thrive and spread.

III. The need for site-specific analysis of effects.

We believe that BLM cannot take the requisite “hard look” at all the effects stemming from the proposed action. *Kleppe v. Sierra Club*, 427 U.S. 390, 410 n. 21 (1976). BLM’s proposed project combines the analysis currently done in four separate EISs for vegetation treatment and noxious weeds, with a similar analysis for Alaska, and then proposes to add in an analysis of the conservation and restoration of native vegetation, watersheds, and wildlife habitat. 66 Fed. Reg. 52148, 52148 (Oct. 12, 2001). Combined, the proposed projects seem to skirt the issue of effects because the scale of the analysis will by necessity be too broad to adequately analyze the project effects on the ground.

The scoping notice does not clarify whether further NEPA review will be done for the actions carried out under the proposed EIS. However, regardless of whether BLM contemplates tiering to the West wide EIS or not, we do not support the current scope of the Western States EIS. BLM should change the scope of the proposed action and divide the action into specific regions for analysis in several EISs in order to meet the scope requirements of the NEPA regulations.

Furthermore, we are concerned that the broad scope of the project will result in an inadequate assessment of the effects of the action. In particular, we are concerned about the cumulative effects of the action.

A. Scope and Cumulative Effects of the Action.

We often encourage federal agencies to take a step back from a proposed project and analyze the effects of several projects in a given area together in an EIS. Because it is well recognized that “when several proposals for ... actions that will have a cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together.” *Kleppe v. Sierra Club*, 427 U.S. 390, 410 (1976) (emphasis added), see also *D’Agnillo v. U.S. Dept. of Housing and Urban Development*, 738 F.Supp. 1454, 1461 (S.D.N.Y. 1990). (“[a] recipient must group together and evaluate as a single project all individual activities which are related either geographically or functionally, or are logical parts of a composite of contemplated actions”).

However, BLM has stepped beyond a given region and decided to analyze the impacts of its action on the entire western half of the United States. In instances such as this, we are concerned that the scope of the project is too broad to provide an adequate analysis of impacts from the proposed activities. The NEPA regulations clearly require the scope of an EIS to be defined by three types of actions, alternatives, and impacts. 40 C.F.R. § 1508.25. We do not believe that the definition of scope includes actions such as the one BLM proposes that covers such a large land mass and such a great number of land management issues.

The regulations require BLM to consider connected, cumulative, and similar actions. Connected actions include actions that “automatically trigger other actions requiring” environmental review, rely on the proposed action, and “interdependent parts of a larger action.” 40 C.F.R. § 1508.25(a)(1)(i)-(iii). While cumulative actions include actions “which when viewed with other proposed actions have cumulatively significant impacts and should therefore be discussed” together. 40 C.F.R. § 1508.25(a)(2). Finally, similar actions are defined as actions “which when viewed with other reasonably foreseeable or proposed agency actions, have similarities that provide for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement. It should do so when the best way to access adequately the combined impacts of similar actions or reasonable alternatives to such actions is to treat them in a single impact statement.” 40 C.F.R. § 1508.25(a)(3) (emphasis added).

The regulations further require the EIS to consider alternatives including the no action alternative, other reasonable courses of action, and mitigation measures. 40 C.F.R. § 1508.25(b). The ambiguous nature of the scoping notice and the large scope of the proposed projects makes this task nearly impossible. Without a detailed description of the numerous actual projects that will be covered by the draft EIS the BLM cannot propose a reasonable and broad range of alternatives.

Finally BLM must analyze the direct, indirect, and cumulative effects of the proposed project under NEPA. 40 C.F.R. § 1508.25(c). Whether the effects are environmentally beneficial or detrimental they must be analyzed. 40 C.F.R. § 1508.8. First, BLM must analyze the direct effects or those that “are caused by the action and occur at the same time and place.” 40 C.F.R. § 1508.8. BLM’s scoping notice includes numerous issues that could result in a tremendous number of projects—all of which will have direct effects that must be analyzed under NEPA. Furthermore, BLM must analyze the indirect effects of the actions covered by the proposed EIS. The indirect effects include effects “which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable. Indirect effects may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.” 40 C.F.R. § 1508.8.

The indirect effects resulting from BLM’s action seemingly are incomprehensible and certainly not effects that can be adequately analyzed in such a broad sweeping EIS. While it is seemingly impossible to envision an EIS that could adequately assess the indirect effects of BLM’s proposed action, it is even more unlikely that BLM can adequately analyze the cumulative effects of the action as it is currently proposed. An

adequate cumulative effects analysis includes analysis of “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or Non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” 40 C.F.R. § 1508.7.

We recognize that BLM is right not to segment its projects that are interrelated. The law is clear that “NEPA does not allow an approach that ‘would permit dividing a project into multiple actions, each of which individually has an insignificant environmental impact, but which collectively have a substantial impact.’” *Kern v. U.S. Bureau of Land Management*, 2002 WL 441534, *7 (9th Cir. 2002), (quoting *Thomas v. Peterson*, 753 F.2d 754, 758 (9th Cir.1985)). However, when the scope of the action prohibits adequate analysis of the project effects the project should be divided into a reasonable size for proper analysis.

IV. Conclusion.

While we recognize that NEPA does not empower us to “second-guess the BLM’s management decisions, it does require the BLM to articulate, publicly and in detail, the reasons for and likely effects of those management decisions, and to allow public comment on that articulation.” See *Kern v. U.S. Bureau of Land Management*, 2002 WL 441534, *7 (9th Cir. 2002), relying on *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). It is our position that in order to adequately assess the effects of BLM’s proposed project several draft EISs must be prepared in order for the BLM to take the requisite “hard look” required of NEPA analysis.

Sincerely,

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