

Friends of Mt. Hood, Bark, the Mazamas,
Northwest Environmental Defense Center, the
Sierra Club, the Native Fish Society, the
Portland Chapter of the Native Plant Society and
the Federation of Western Outdoor Clubs

April 4, 2011

VIA ELECTRONIC MAIL to comments-pacificnorthwest-mthood-zigzag@fs.fed.us

Ms. Christy Covington
Mt. Hood National Forest
70220 E. Highway 26
Zig Zag, OR 907049

Re: Comments on the Timberline Ski Area Mountain Bike Trails and Skills Park Preliminary Assessment

Dear Ms. Covington:

Please accept the following comments on the Preliminary Assessment for the Timberline Mountain Bike Park Trail and Skills Park dated March 2011. These comments are submitted on behalf of Friends of Mt. Hood, Bark, the Mazamas, the Northwest Environmental Defense Center, the Sierra Club, the Native Fish Society, the Portland Chapter of the Native Plant Society of Oregon and the Federation of Western Outdoor Clubs. These organizations represent tens of thousands of Oregonians who care deeply about the natural, historic, cultural and recreational resources of Mt. Hood. Together, our groups have decades of experience working to protect Mt. Hood for current and future generations, and we have a long-standing interest in the mountain, its ecology and its history. Our comments are motivated by our collective interest in preserving Mt. Hood, the crown jewel of Oregon, for Oregonians and all those who visit from all over the world. For reasons that we discuss below, the Draft Preliminary Assessment (PA) is a deeply flawed planning document that cannot and does not provide a legal or scientific basis for the Forest Service to approve the construction of a mountain bike trail system in the high elevation historic setting of Timberline Lodge. The only option at this time based on the analysis in the PA is for the Forest Service to select the No Action alternative.

At the outset we want to emphasize that we are not opposed to mountain biking as a general matter. Many of our members are mountain bikers, and the sport generally provides important, non-motorized, healthy recreational opportunities for the public. We are supportive of Forest Service efforts to promote and manage sustainable mountain biking on the Mt. Hood National Forest. We also believe that mountain bikers generally

have a respect for the natural environment and are interested in making sure that the federal government effectively stewards our public lands for future generations.

This specific proposal, however, is deeply flawed in a number of very important respects. The project is proposed to be built in a sensitive, high elevation environment that serves as a Tier I Key Watershed for important salmonid populations, many of which are listed pursuant to the Endangered Species Act. The area is home to a large number of unique and rare plant and animal species, which will suffer negative consequences as a result of the proposed project. The soils consist of extremely fragile volcanic material that is highly susceptible to erosion and compaction. And for years the public and the Forest Service have worked to preserve the historic qualities of the Timberline Lodge and its surrounding environment. Put simply, this is the wrong place for a lift-served, downhill mountain bike park.

We have grave concerns that the proposed project will cause irreparable and significant damage to Mt. Hood and its environment. Our review of the PA suggests that this development could result in the following negative impacts to the high elevation, alpine environment surrounding Timberline Lodge:

- Extensive cutting of old-growth trees and construction of trails, including 22 stream crossings in sensitive headwater areas within Tier 1 Key watersheds that support salmon and steelhead;
- Resulting excess sedimentation, increases in peak flows, and damage to stream channels and aquatic habitat in sensitive watersheds that are already degraded because of existing ski area operations;
- Subsequent harm to aquatic species and their critical habitat listed under the Endangered Species Act, including the Lower Columbia River (LCR) steelhead, LCR Chinook, and LCR coho, as well as sensitive and management indicator species (MIS), including coastal cutthroat trout and Scott's Apatanian Caddisfly;
- The introduction of invasive species in an environment currently occupied by a wide range of unique and sensitive high elevation native plant species;
- Use of herbicides in salmon-bearing watersheds to "aggressively" treat those invasive species;
- Erosion and compaction of soil, which will render revegetation efforts difficult at best and fruitless at worst;
- The exclusion of big game, including deer and elk, from the area; and
- Permanent and irreparable damage to the historic nature of the Timberline Lodge area and the peaceful recreational opportunities currently enjoyed by the public.

In the big picture, the proposed project would forever alter an area that still supports native wildlife and plants, unique quiet recreational opportunities, watershed health and the historic character of Mt. Hood. In its place, lift serviced mountain biking would cause erosion and sedimentation, damage watershed health, exclude big game, introduce

invasive species, result in heavy use of chemical toxic herbicides, and ruin the historic nature of the area.

Given these grave threats to one of Oregon's most unique natural wonders, we implore you to consider alternative locations for mountain biking trails and facilities. There is simply no good reason to use this particular area as the focal point for mountain biking on Mt. Hood. The public stands ready to work with the Forest Service through an open and inclusive process to identify appropriate locations for additional free-ride and downhill mountain biking trails on the Mt. Hood National Forest, a process which has been used successfully by the Forest Service, the Bureau of Land Management (BLM), Oregon State Parks and other agencies in the Pacific Northwest. From the beginning, however, the Forest Service has not engaged the public in such a process, instead narrowly focusing on Timberline Lodge as the location for developed mountain biking facilities with limited public input and without investigation of other locations and alternatives.

With these larger concerns in mind, please give careful consideration to our more detailed comments below. These comments speak to the deeply flawed public process, or the lack thereof, used by the Forest Service to this point in time. Our comments also discuss the numerous ways in which the PA fails to comply with the Northwest Forest Plan (NFP), Mt. Hood Land and Resource Management Plan (LRMP) and the National Forest Management Act (NFMA). We also discuss numerous shortcomings with respect to the procedural, action-forcing requirements of National Environmental Policy Act (NEPA) and the need to prepare a much more thorough and searching Environmental Impact Statement (EIS) prior to approving the permanent and significant impacts that would result from the construction of the proposed mountain bike park.

The first parts of the comments address three broad, overarching problems with the PA that render the document fatally flawed and require the Forest Service to step back and reformulate the planning process before moving forward.

First, as we have stated many times in the past, the public was locked out from the agency's review and approval of the Master Development Plan for the Timberline Lodge Ski Area, which violates the National Environmental Policy Act as well as prior agency policy and practice. The Forest Service must therefore conduct an appropriate NEPA review of the Master Plan prior to authorizing any site-specific decision implementing that plan, as the agency has done with the other ski areas on Mt. Hood in the past.

Second, the scoping notice in this case was inadequate because the Forest Service failed to provide the public with any notice or opportunity to provide input on the restoration projects used by the Forest Service to offset or mitigate the otherwise significant adverse impacts to aquatic habitat for salmon and steelhead caused by sedimentation associated with bike trail construction and use. The Forest Service must therefore reopen scoping because of significant changes to the scope of the project and new information on the significant adverse effects to the environment.

Third, the Forest Service has inexplicably relied upon the illegal and outdated 2005 National Forest Management Act planning regulations in assessing impacts to MIS, including the coastal cutthroat trout. The Forest Service is required to apply the “best available science” requirement of the transitional provisions of 2000 NFMA regulations. The Forest Service must therefore withdraw the PA and re-issue that document, allowing the public to provide informed input into whether and how the Forest Service complied with the “best available science” requirement. This issue is particularly important here because the agency’s analysis of impact to both aquatic and terrestrial MIS conflicts with the best available science in many regards.

The remainder of these comments discusses each section of the Preliminary Assessment in order. There are numerous areas in which the Forest Service has failed to adhere to the Northwest Forest Plan and/or the Mt. Hood LRMP and where additional information is necessary. The final section of the comments discusses the need for the agency to prepare an Environmental Impact Statement because of the potentially significant adverse impacts to the human environment. Because of these shortcomings, the No Action alternative is the only feasible choice at this time.

In addition, we have also provided the expert comments of Mr. Jon Rhodes, a hydrologist with decades of experience in assessing the impacts of land disturbance activities on hydrology, watersheds and aquatic habitat. Mr. Rhodes has conducted and published numerous research projects and reports for the U.S. Forest Service, the National Marine Fisheries Service, the Bonneville Power Administration, the Columbia Rive Inter-Tribal Fish Commission and many non-governmental organizations. He has also been cited as a qualified expert in numerous judicial decisions in the District of Oregon and other courts around the West. In his comments, he discusses a variety of areas in which the Forest Service has failed to provide adequate information on the potential environmental impacts to watershed health and aquatic habitat, and he also discusses in detail how and why the Forest Service’s analysis fails to adhere to or consider the best available science as required by law. We ask that you give careful consideration to the expert comments of Mr. Rhodes in deciding whether the Forest Service should approve the mountain bike park based on the highly suspect PA.

I. The Forest Service Must Conduct an Open and Transparent Analysis of the Environmental Effects of the Timberline Ski Area Master Development Plan Before Approving a Site-Specific Mountain Biking Proposal.

As we discussed in our scoping comments, the Forest Service inappropriately failed to conduct any NEPA process whatsoever for the Timberline Ski Area Master Development Plan (Master Plan or MDP), which is a required condition of the special use permit. The failure to prepare any NEPA documentation for the Master Plan is a direct violation of NEPA, and the Forest Service therefore cannot implement any specific projects set forth in the Master Plan. Moreover, the agency’s failure to do so here reverses a long-standing agency practice on the Mt. Hood National Forest and Region 6 of preparing NEPA analyses for Master Plans prior to, or at bare minimum at the same

time, as approving site specific projects. The decision to lock the public out of the Master Planning process is not only illegal but also a highly suspect policy decision that is likely to generate conflict and disagreement as opposed to consensus and common ground.

As discussed in the PA, RLK submitted a proposed Master Development Plan to the Forest Service in January 2009, which is required by the special use permit.¹ The submission and approval of a Master Plan is similarly required by the Forest Service Manual (FSM) section 2341(2). The Master Plan for RLK sets forth the vision of ski area development over the next 10-15 years, and the Forest Service states that it reviewed the potential projects in the MDP and concluded that they “appear to be, or can be made consistent, with applicable laws, regulations, policies, and the Forest Plan as amended.”² RLK then submitted a proposed amendment to the Master Plan, which contained the mountain biking proposal, and the Forest Service accepted the proposed amendment in 2010.³

The Forest Service has violated the basic public participation requirements of NEPA by approving RLK’s Master Development Plan without any public participation whatsoever. The MDP sets forth the conceptual vision for how the resources of the ski area will be developed and managed, similar to the way in which a forest plan sets forth the vision for management of the forest as a whole. The MDP is a required component pursuant to the terms of the ski area special use permit, and therefore no site-specific development can move forward in the absence of an approved MDP. As this case readily demonstrates, the MDP leads directly to and, in fact, limits the scope and type of site-specific proposals that can be made by the permit holder in managing public lands within the permit boundary area.

Here, the public was completely shut out of the master planning process for determining whether the Timberline Lodge special use permit area should be the location of a developed downhill mountain biking facility. The public, as required by NEPA, should have been given an up-front opportunity to weigh in on the scope and components of the MDP, alternatives, mitigation measures and the potential environmental impacts. This is particularly important given that the Forest Service reached concrete conclusions that the projects to be implemented pursuant to the MDP “appear to be, or can be made consistent, with applicable laws, regulations, policies, and the Forest Plan as amended.”⁴ The Forest Service reached important conclusions on the legality of site-specific projects at the conceptual planning stage without any public participation, input or review. This flawed process fundamentally violates the plain language and the intent of the democratic principles of NEPA.

¹ PA at 3.

² *Id.*

³ *Id.*

⁴ *Id.*

A NEPA analysis of the Master Development Plan is also required to provide a comprehensive look at the cumulative effects of the planned build out of the Timberline special use permit area. The Forest Service approved the Jeff Flood lift without allowing any public review of the Master Plan or conducting a cumulative effects analysis of future activities only to receive a proposal for a mountain bike park in the same terrain accessed by the new lift only a short time later. The Master Plan for Timberline Lodge also calls for 800 new parking spaces, which will have an additional impact on the environment, and we can only imagine that the increased summer use resulting from the mountain bike park will then be used to justify the increase in parking facilities. The Forest Service must step back and take a comprehensive look at the cumulative impacts of the proposed build out of the Timberline Ski Area, informed by public involvement and guided by the best available science.

Moreover, the agency's position in this case represents a troubling and marked reversal of position for the Mt. Hood National Forest after decades of extensive public participation at the master planning level. The Mt. Hood National Forest has a long history of engaging the public in a NEPA process when considering ski area master plans for approval, recognizing the potentially significant impacts to the unique and rare alpine environment of Mt. Hood. The most well-known example is the master planning process for Mt. Hood Meadows, which resulted in the development of an Environmental Impact Statement following extensive public participation by Friends of Mt. Hood and many other citizens and non-governmental organizations.

The Environmental Impact Statement associated with the Mt. Hood Meadows Master Plan was subsequently litigated in federal court in the District of Oregon, and the outcome of that case provides concrete guidance for the agency in this situation.⁵ The court held that substantive challenges to the Master Plan's compliance with the Northwest Forest Plan, for instance, were not yet ripe for review until site-specific implementation.⁶ The District of Oregon did, however, review the EIS for compliance with NEPA, finding that the Forest Service had failed to assess a reasonable range of alternatives.⁷ That decision subsequently resulted in an injunction prohibiting any material change in the parking facilities of Mt. Hood Meadows until such time as the Forest Service adequately complied with NEPA's procedural requirements as applied to the Master Plan for Mt. Hood Meadows. The court's opinion documents the Mt. Hood National Forest's prior decision to prepare an EIS for a ski area master plan, as well as the Court's common sense finding that NEPA applied to the master planning process and that claims based on NEPA were ripe for judicial review and could lead to substantive prospective injunctions preventing future site-specific disturbance.

Now, however, instead of adhering to the guidance from the District of Oregon regarding, for instance, the consideration of alternatives set forth by the public, the Mt.

⁵ *Friends of Mt. Hood v. U.S. Forest Serv.*, 2000 U.S. Dist. LEXIS 18309 (D. Or. Dec. 15, 2000).

⁶ *Id.* at *15-16 (citing *Ohio Forestry Ass'n v. Sierra Club*, 523 U.S. 726 (1998)).

⁷ *Id.* at *29-30.

Hood National Forest has instead simply shut out the public all together from the master planning process. The agency has not provided any justification whatsoever for doing so, other than simply stating that “other elements envisioned in the MDP are only conceptual in nature, have not yet received the level of planning and design necessary for environmental analysis, and have yet to be fully evaluated for their feasibility.”⁸ These conclusions all fly directly in the face of the agency’s prior practice when, in fact, it conducted extensive studies of the potential impacts of the Mt. Hood Meadows master plan, included the public in a detailed analysis of alternatives, conducted an extensive cumulative impacts analysis, developed a full suite of mitigation measures, and established the scope of activities that could be proposed in the future as site-specific projects. The Forest Service has failed to provide any reasoned basis for changing course and now excluding the public from this important planning process, and its so-called justifications set forth in the PA contradict the agency’s past practices of including the public pursuant to the NEPA process.

In short, the Forest Service must step back and unwind the closed-door process that eventually led to this specific proposal for a mountain biking facility at Timberline Lodge. The agency must first engage the public in an open and transparent NEPA process regarding the MDP, which will set forth a range of alternatives regarding the future development of the ski area and surrounding environment. Once the Forest Service has made a decision on the long-term development of the ski area, with informed public input, it can then begin to review and approve site-specific proposals that are consistent with the long-term management plan. The Mt Hood National Forest’s decision to lock the public out of the planning process for the Timberline Lodge and Ski Area and the surrounding public lands is simply unacceptable given the unique historic and natural resources at stake. Moreover, it is illegal pursuant to NEPA, contrary to the agency’s past practices and destined to lead to increased conflict and less public support for future site-specific projects.

II. The Forest Service Must Set Aside the PA and Reopen the Scoping Process, Because It Failed to Inform the Public of the Substantial Restoration Projects Needed to Offset and Mitigate Significant Harm to Aquatic Habitat for Threatened Salmon and Trout in a Tier 1 Key Watershed.

Based on new information regarding the potentially significant harm to the environment presented by the construction of bike trails in the alpine environment of Timberline Lodge, the Forest Service made significant changes to the proposed project after the close of the scoping period. As the Forest Service states in the PA, during this time frame the agency “in collaboration with RLK” developed a restoration proposal relating to existing erosion caused by prior and current ski area operations.⁹ By failing to include the restoration component of the project in the original scoping announcement, the Forest Service failed to provide the public with notice of the project as required by

⁸ PA at 4.

⁹ PA at 5.

law and substantially prejudiced the public's rights to provide informed input into the design of the restoration projects.

As discussed in the Draft Biological Assessment (BA), the construction of the bike trails, extension of the drainage network, numerous stream crossings and increase in peak flows will "significantly increase short term and long term fine sediment into Still Creek and the West Fork Salmon River."¹⁰ The significant increase in sediment is a concern, because the existing ski area operations have already had a significant negative impact on these important watersheds. As Ms. Arendt concluded in her Draft BA, the baseline conditions for sediment/turbidity and embeddedness are "**Functioning at Risk**" for the Glade and Sand Canyon subwatersheds and "**Not Properly Functioning**" in Still Creek and the West Fork Salmon River.¹¹ Sediment levels in these watersheds are "among the highest observed in the clean-water tributaries on the Zigzag Ranger District."¹² As the Draft BA recognizes, Still Creek, in particular, provides important habitat for the threatened LCR steelhead trout, which is "present throughout most of the [] subwatershed."¹³

As will be discussed below, the significant adverse impacts to aquatic habitat for threatened salmonids is flatly inconsistent with the Aquatic Conservation Strategy (ACS) of the Northwest Forest Plan, and the project as proposed is therefore illegal and contrary to law. "To mitigate for these adverse effects to habitat, a suite of watershed restoration actions were identified as part of the proposed action."¹⁴ Those restoration activities include decommissioning some roads, improving road surfaces, and improving certain drainage structures.

Before the release of the PA, the Forest Service failed to provide notice to the public as part of the scoping process that substantial restoration efforts were needed to mitigate the significant sedimentation and resulting adverse effects to watershed conditions to be caused by the project. The original scoping letter does not include any notice whatsoever of the restoration component to the project.¹⁵ The public, therefore, was not given any opportunity to provide input on the restoration component of the proposed action at the scoping stage of the process.

The failure to inform the public of the restoration component of the project at the scoping phase violates the public disclosure and involvement requirements of NEPA. The Forest Service is required to engage the public in a scoping process for every project

¹⁰ Draft BA at 38.

¹¹ *Id.*

¹² *Id.*

¹³ Draft BA at 21.

¹⁴ Draft BA at 61.

¹⁵ Scoping Letter from Mr. Bill Westbrook, Zigzag District Ranger, to Interested Public, File Code 1950-1 (June 29, 2010).

considered by the agency.¹⁶ The scoping process “shall be an early and *open* process for determining the scope of the issues to be addressed and for *identifying significant issues* related to a proposed action.”¹⁷ The scoping process “ensures that interested parties are aware of and therefore are able to participate meaningfully in the entire [NEPA] process, from start to finish.”¹⁸

If “substantial changes are made later in the proposed action, or if significant new circumstances or information arise which bear on the proposal or its impacts,” the Forest Service must reopen the scoping process and revise the determinations to be made after consultation with the public.¹⁹ This is precisely the situation here, where the Forest Service did not provide to the public any notice whatsoever at the scoping stage that the proposed project would include a restoration component in order to mitigate the significant adverse impacts of increased sedimentation in salmon-bearing watersheds. After the scoping stage, “substantial changes” were then made to the proposed action based on information that arose later in time on the impacts of the proposal.²⁰ The applicable NEPA regulations unambiguously require that the Forest Service reopen the scoping period to allow for fully informed public participation in an open and transparent manner for the *entire* NEPA process.

Moreover, the failure to provide notice of the proposed restoration activities at the scoping stage has significantly prejudiced the public’s practical ability to provide informed input into the design and efficacy of the proposed restoration projects. The original scoping letter was published on June 30, 2010, when the project area was free of snow during the summer months. The Forest Service hosted a site visit to discuss the proposal and provide the public with an on-the-ground look at the project area. At that time, there was no mention of the restoration activities, and the public was therefore unable to review the specific locations of the proposed restoration projects.

The PA was then released in March of 2011 when the project area was covered by many feet of snow, and the public was given a 30-day period in which to comment on the design and efficacy of the restoration projects, which theoretically serve to mitigate the significant adverse impacts to the watershed. There is no way for the public to conduct an adequate site visit to review the conditions of the restoration sites or the design of the restoration proposals when the roads, drainage networks and existing damage to the ski area are buried under many feet of seasonal snow. By staging the process this way, the Forest Service has made it impossible for the public to provide comment, fully informed by an effective site visit, into the critical restoration components of the project. The

¹⁶ 40 C.F.R. § 1501.7; Forest Service Handbook (FSH) 1900.15 (National Environmental Policy Act Handbook), Chapter 31.3.

¹⁷ 40 C.F.R. § 1501.7 (emphasis added).

¹⁸ *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1116-17 (9th Cir. 2002) (citing *Northwest Coalition for Alternatives to Pesticides v. Lyng*, 844 F.2d 588, 594-95 (9th Cir. 1988)).

¹⁹ 40 C.F.R. § 1501.7(c).

²⁰ *Id.*

agency has therefore insulated its decision from public scrutiny, which directly contradicts the democratic, disclosure and transparency requirements of NEPA.²¹

Finally, had the Forest Service notified the public at the scoping stage of its proposed approach of using restoration to offset or mitigate significant adverse effects to aquatic habitat, the public could have and would have informed the agency that this approach is clearly illegal and inconsistent with the standards and guidelines of the Northwest Forest Plan. In plain and unambiguous language, the NFP prohibits the Forest Service from this exact approach to watershed management, stating “[d]o not use **mitigation or planned restoration as a substitute for preventing habitat degradation.**”²² By failing to inform the public at the earliest possible time of the restoration component of the proposed project, the Forest Service has invested its limited resources and specialist staff time in designing restoration projects, when that overall management approach is simply illegal pursuant to the Northwest Forest Plan.

In sum, the Forest Service’s failure to disclose at the scoping stage its approach of mitigating significant impacts to the watershed with restoration efforts violates the letter and spirit of the public participation requirements of NEPA. By failing to disclose these issues in a transparent and timely fashion, the Forest Service has insulated its decision from public scrutiny while at the same time spending the time and effort of its specialist staff on an illegal approach to management. Before the agency proceeds any further down this misguided road, it must reopen the scoping process to allow for fully informed public participation at all stages of the NEPA process. In doing so, the Forest Service can avoid the inevitable conflict that is sure to arise at latter stages of the decision-making process should the agency instead proceed forward in direct violation of both NEPA and the NFP.

III. The Preliminary Assessment Fails to Comply with the Applicable National Forest Management Act Regulations Regarding Management Indicator Species Including the Coastal Cutthroat Trout.

The PA is contrary to the National Forest Management Act because the Forest Service relies upon illegal and outdated provisions of the 2005 NFMA planning regulations governing Management Indicator Species (MIS),²³ which were vacated and enjoined by the Northern District of California.²⁴ MIS on the Mt. Hood National Forest include the Coastal cutthroat trout (*O. clarki*),²⁵ and resident cutthroat have been

²¹ *Or Natural Desert Ass’n v. BLM*, 625 F.3d 1092 (9th Cir. 2010) (stating that ““public scrutiny is essential to implementing NEPA””) (quoting 40 C.F.R. § 1500.1(b)).

²² NFP Standard and Guideline at C-37 (standard WR-3) (emphasis added); *see also Or. Nat. Res. Council Fund v. Goodman*, 505 F.3d 884, 894 (9th Cir. 2007).

²³ PA at 75-76 (citing 36 C.F.R. § 219.14(f)).

²⁴ *Citizens for Better Forestry v. U.S. Dept. of Agric.*, 481 F.Supp.2d 1059 (N.D. Cal. 2007).

²⁵ PA at 76; Draft BA at 20, 31; Mt. Hood LRMP at four-13.

documented in both Still Creek and the West Fork Salmon River within the project area.²⁶ The Forest Service also assumes that Still Creek provides habitat for the much rarer sea-run (anadromous) coastal cutthroat.²⁷ The analysis of impacts to MIS, in particular cutthroat trout, is particularly important in this case because of the Forest Service's highly controversial plan to mitigate otherwise significant adverse effects of sedimentation by implementing proposed restoration work.

On January 5, 2005, the Department of Agriculture issued the 2005 version of the NFMA planning regulations.²⁸ Regarding MIS, the 2005 planning rule states that the Forest Service "may comply with any obligations relating to management indicator species by considering data and analysis relating to habitat" unless the applicable LRMP requires population monitoring.²⁹ The rule was challenged in the Northern District of California by a coalition of conservation organizations, and Judge Hamilton subsequently found that promulgation of the 2005 planning rule violated the Administrative Procedure Act (APA), NEPA and Endangered Species Act (ESA).³⁰ On March 20, 2007, the Court vacated and enjoined implementation of the 2005 planning rule.³¹ The Court then allowed the Department of Agriculture to determine whether to revert to the 1982 planning rule or the 2000 planning rule,³² and the Forest Service chose the 2000 planning rule.

On April 21, 2008, the Department of Agriculture then issued another set of planning regulations,³³ which were again challenged by Citizens for Better Forestry *et al.* On June 30, 2009, the Northern District of California ruled that promulgation of the 2008 planning rule violated NEPA and the ESA.³⁴ The Court vacated the 2008 planning rule and enjoined the Dept. of Agriculture from implementing the rule. As the Court stated at that time:

"The effect of invalidating an agency rule is to reinstate the rule previously in force." *Paulsen v. Daniels*, 413 F.3d 999, 1008 (9th Cir. 2005). It appears that the 2000 rule was in force before the 2008 Rule was promulgated. However, the USDA has expressed its past view that the 2000 Rule is unworkable in practice. Accordingly, the agency may choose *whether to reinstate the 2000 Rule or, instead, to reinstate the 1982 Rule.*³⁵

²⁶ Draft BA at 31.

²⁷ *Id.*

²⁸ 70 Fed. Reg. 1055 (Jan. 5, 2005).

²⁹ 36 C.F.R. § 219.14(f) (2005).

³⁰ *Citizens for Better Forestry*, 418 F.Supp.2d at 1059.

³¹ *Id.* at 1100.

³² *Id.*

³³ 73 Fed. Reg. 21468 (Apr. 21, 2008).

³⁴ *Citizens for Better Forestry v. U.S. Dept. of Agric.*, 632 F.Supp.2d 968 (N.D. Cal. 2009).

³⁵ *Id.* at 982 (emphasis added).

Because the same Court had already enjoined the Department of Agriculture from implementing the 2005 planning rule, the government was given a choice of implementing either the 1982 rule or the 2000 rule. Neither of the parties asked that the Court reinstate the 2005 planning rule, and the Court did not mention the 2005 rule in its decision.

On December 18, 2009, the Department of Agriculture issued a “final rule to comply with a June 30, 2009, Federal District Court order that has the effect of *reinstating the National Forest Land and Resource Management Planning Rule of November 9, 2000*, as amended (2000 rule).”³⁶ In the December 2009 final rule, the Department of Agriculture clarified that the transitional provisions of the 2000 regulations will continue to apply “until the Department issues a new planning rule.”³⁷ The 2000 transitional provisions state that the responsible official “*must consider the best available science when developing and carrying out projects.*”³⁸ Again, the Department of Agriculture made no mention of the 2005 planning rule.

As applied to this proposed project, the Forest Service must therefore consider the best available science as it relates to impacts to habitat for coastal cutthroat trout, one of the MIS for the Mt. Hood National Forest. The “best available science” requirement is particularly important in this case because the Forest Service relies upon restoration as mitigation for the otherwise significant impacts in sedimentation, which will degrade habitat for salmon and trout, including the coastal cutthroat trout (an MIS species) as well steelhead, coho and Chinook, which are all listed as threatened pursuant to the ESA. As discussed in the expert comments prepared by Mr. Rhodes, the Forest Service’s conclusion that the restoration projects will fully offset the significant negative effects of the project conflicts with the best available science in a number of key regards.³⁹ In particular, the Forest Service has failed to consider or mention the best available science as it relates to:

- The efficacy of restoration measures, which are being used to offset and mitigate otherwise significant increases in sedimentation;
- The flawed conclusion that restoration efforts “offset” additional disturbance, resulting in the calculation of a “net” disturbance;
- The timing of the sediment reductions from restoration efforts as compared to increases in sediment inputs from trail construction and use;
- The impacts of soil loss on soil productivity;
- The impacts of stream crossings on sediment delivery, and the impacts of sediment delivery on fine sediment levels in aquatic habitat;

³⁶ 74 Fed. Reg. 67059 (Dec. 18, 2009) (emphasis added).

³⁷ *Id.* at 67061. The Department of Agriculture issued a notice of proposed rulemaking on for the new set of NFMA planning rules on February 14, 2011. 76 Fed. Reg. 8480 (Feb. 11, 2011). A final rule has not yet been published.

³⁸ *Id.* (emphasis added); *see also* Appendix B to § 219.35 (74 Fed. Reg. at 67074).

³⁹ See Rhodes comments at 2-4.

- The interception of subsurface flows and the resulting impacts on trail conditions and sedimentation;
- The impacts of increased peak flows, even below 10%, on erosion and sediment transport;
- The impacts of elevated fine sediment levels and turbidity on pool volume and quality, aquatic habitat conditions and survival and production of steelhead, coho salmon, chinook salmon and coastal cutthroat trout;
- The importance of headwater stream systems in determining habitat capability for downstream fish assemblages, in particular the cumulative impacts of fine sediment delivery in upstream habitat and its impacts on downstream habitat;
- The impacts of sedimentation on habitat for macroinvertebrates, the main prey for salmonids including the Coastal cutthroat trout;

Moreover, we also note that the Draft Fisheries Biological Assessment omits any discussion of impacts to MIS, including the coastal cutthroat trout, stating simply “**MIS effects language goes here.**”⁴⁰ The PA similarly lacks any discussion of impacts to coastal cutthroat trout or any discussion of the best available science regarding impacts to aquatic habitat.⁴¹

The PA is therefore fundamental flawed, and the Forest Service must re-issue a revised PA that: 1) identifies accurately the applicable planning regulations pursuant to the National Forest Management Act; and 2) applies the best available science requirement in the context of the agency’s conclusion on impacts to MIS, in particular cutthroat trout as well as the remainder of the designated MIS, including deer and elk. Otherwise, the public will not have any opportunity to provide to the decision maker input into potential impacts to MIS.

IV. Chapter 1 – Purpose and Need

Our organizations question the purpose and need for the proposed lift-served mountain biking facility at Timberline Lodge. The PA states that the “purpose of the project is to allow RLK to provide the public with additional year round recreational activities to better use the existing ski area infrastructure while helping to meet the demand for lift serviced mountain biking in the area.”⁴² We question the need for a developed, lift-serviced, downhill mountain bike park at Timberline Lodge, and we request further clarification on the information, if any, relied upon by the Forest Service in demonstrating this need. As the Forest Service admits in the PA, lift-serviced mountain biking is a “niche market,” which is already served by a number of regional facilities.

⁴⁰ Draft BA at 64 (emphasis in original).

⁴¹ PA at 75 (citing 2005 planning regulations), 95-100 (discussing MIS but omitting any discussion of cutthroat trout).

⁴² PA at 4.

The PA itself lacks any information or data about the potential demand for developed, lift-serviced mountain biking facilities in Oregon and the Pacific Northwest. The Forest Service states only that mountain biking is “an important component of the” outdoor recreation market in Oregon.⁴³ The Forest Service also discusses a perceived increase in unauthorized “free-ride” areas on public land;⁴⁴ however, the Forest Service admits that the Timberline Mountain Bike Park “would not prevent unauthorized bike trails from being built elsewhere.”⁴⁵ The Forest Service clarifies that “eliminating unauthorized trails on the Forest is not one of the purposes of the project.”⁴⁶ The stated purpose of the project, therefore, relates solely to providing additional facilities for the perceived demand for a fee-based, downhill, lift-serviced mountain biking.

The PA fails to provide any data on regional demand for downhill, lift-serviced mountain biking, which relates directly to making an informed decision on weighing the environmental impacts against the perceived benefits of the project. The purpose and need section itself is silent as to how the Forest Service concluded that there was adequate demand to justify the construction of this bike park in the sensitive, high-elevation terrain of Timberline Lodge.

This is not a trivial matter, because there are currently a number of lift-serviced, downhill mountain biking facilities in the Pacific Northwest region. Mt. Hood Ski Bowl, for instance, already offers downhill, lift-serviced mountain biking. The PA admits that, at least “during the initial few years of operation,” “local SkiBowl riders would visit Timberline instead of SkiBowl.”⁴⁷ Moreover, the Forest Service also concedes in the PA that there is not enough demand in the local market to maintain the projected 87% capacity of the Timberline bike park throughout the weekdays.⁴⁸ “[I]t is anticipated that a large number of visitors to the area will be regional visitors who are enjoying multiple-day visits to the bike park.”⁴⁹ The Forest Service, therefore, concedes that the local demand for this niche market is not enough to sustain both Ski Bowl and Timberline, because the Timberline Bike Park will simply be taking customers from Ski Bowl while at the same time not enough local demand exists to meet the capacity projections for the bike park.

The Forest Service therefore relies on an increase from regional visitors who will be visiting the locality specifically because of the bike park.⁵⁰ The PA, however, lacks any information on the regional demand for downhill, lift-served mountain biking, nor

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ PA at 10.

⁴⁶ *Id.*

⁴⁷ PA at 142.

⁴⁸ PA at 140.

⁴⁹ *Id.*

⁵⁰ PA at 140 (stating that “a large number of the visitors to the area will be regional visitors who are enjoying multiple-day visits to the bike park”).

does the PA discuss the other options available in this niche market within the Pacific Northwest Region.

In the recreation section of the PA, the Forest Service assumes that an estimated 21,656 visit would occur in Year 6.⁵¹ The Forest Service does not provide any information on how it arrived at this number, instead referring the reader to the socio-economic section.⁵² In the socio-economic section, the Forest Service again simply fails to provide any information on how the Forest Service justifies this assumption, instead simply referring the reader back to the recreation section.⁵³ The Forest Service states in the purpose and need section that the “[m]arket demand is addressed in the Socio-economic section of the analysis,”⁵⁴ but the Forest Service has simply included a confusing set of circular internal references and an unexplained and unjustified assumption about user visits. At no point in the PA does the Forest Service provide any information on the regional market demand for or supply of downhill, lift-served mountain biking in the Pacific Northwest.

The failure to include any analysis of regional market demand and supply is especially problematic, because there are a number of other lift-served, downhill mountain biking facilities in the region, with proposals for even more. In addition to Ski Bowl, Willamette Pass offers downhill mountain biking.⁵⁵ Moreover, the Forest Service just accepted a Master Development Plan for Mt. Bachelor that includes a downhill, lift-served mountain bike park, which because it targets a different region of the state would appear to be a better fit for regional expansion.⁵⁶ The Timberline Bike Park would therefore be competing against three other facilities in Oregon alone, two on the west side of the Cascades and one on the East side. Moreover, the Forest Service recently approved the construction of a downhill, lift-served mountain bike park at Stevens Pass, Washington.⁵⁷ Crystal Mountain in Washington also offers gondola rides for mountain bikers during the summer.⁵⁸ And the Forest Service has often times referenced the facilities available in Southwestern British Columbia at Whistler. Given the direct

⁵¹ PA at 139.

⁵² *Id.*

⁵³ PA at 157.

⁵⁴ PA at 14.

⁵⁵ <http://www.willamettepass.com/summer/activities/mountainbiking.php>.

⁵⁶

http://www.mtbachelor.com/site/info/media_center/Mt%20Bachelor%20MDP%20Acceptance%20Release_Final.pdf

⁵⁷

http://www.fs.usda.gov/wps/portal/fsinternet!/ut/p/c4/04_SB8K8xLLM9MSSzPy8xBz9CP0os3gDfxMDT8MwRydLA1cj72BTMwMTAwjQL8h2VAQArb-RA!!/?ss=110605&navtype=BROWSEBYSUBJECT&navid=130110000000000&navid=130000000000000&accessDB=true&position=Project*&groupid=23275&ttype=projectdetail&pname=Mt.%20Baker-Snoqualmie%20National%20Forest-%20Projects.

⁵⁸ <http://www.crystallmountainresort.com/Summer-Activities/1019/Hiking-38-Biking-Trails>

competition from Ski Bowl alone, as well as the other offerings at Willamette Pass, Mt. Bachelor, Stevens Pass, Crystal Mountain and Whistler, the Forest Service has failed to offer any reasonable information or data that regional demand will support the predicted 21,656 visit by year 6.

NEPA requires the Forest Service to disclose the underlying data upon which it relies in reaching its conclusions and furthermore requires the agency to “identify any methodologies used” in preparing its documentation.⁵⁹ We specifically request that the Forest Service clarify the method it used to determine the project visitation projections/assumptions at the proposed Timberline Bike Park as well as disclosing any and all underlying data on the regional and local demand and supply for downhill, lift-served mountain biking. In the absence of this information, it is impossible for the public to determine whether, in fact, there is enough of a need for this niche market to justify the potential adverse impacts to the sensitive high-elevation environment of Timber Lodge and Mt. Hood.

V. Chapter 2 – Proposed Action

As discussed above, our organizations are extremely concerned that the Forest Service has decided to rely upon restoration efforts to offset or mitigate the otherwise significant adverse impacts to aquatic habitat resulting from sedimentation that will be delivered to the stream network through the Riparian Reserves. Chapter 2 purports to describe the proposed action “in detail,” but this section omits information necessary to allow the public a reasonable opportunity to review the proposed restoration activities, and the Forest Service has failed to include a reasonable range of alternatives.

A. The Restoration Component of the Proposed Project

Initially, we object to the Forest Service including these restoration projects within this proposal as a means of offsetting *future* significant adverse impacts to aquatic habitat and watershed health. The restoration sites are all located within the existing footprint of the Timberline Ski Area, and the problems with erosion, sedimentation, and bank channel stability have been caused by prior construction, maintenance and operations activities within the ski area. As a result of these previous impacts, the Draft BA concludes that the subwatersheds are functioning at risk or not properly functioning.⁶⁰

The Forest Service, therefore, should be requiring Timberline to implement these restoration activities to address *prior* negative impacts associated with ski area development. Instead, the Forest Service has allowed Timberline to degrade sensitive, fish bearing watersheds by building and maintaining a ski area, while then allowing restoration efforts to mitigate *future additional* degradation resulting from construction of summer use facilities. When looked at cumulatively, the prior development of the ski

⁵⁹ 40 C.F.R. § 1502.24

⁶⁰ Draft BA at 38.

area, along with the proposed construction of summer use, lift-served mountain biking trails, and the restoration efforts, will have severely degraded these sensitive, high-elevation watersheds, which provide habitat for LCR steelhead, chinook and coho salmon as well coastal cutthroat trout and a number of other important aquatic and macroinvertebrate species. As will be discussed in the environmental effects section, the Forest Service's refusal to conduct a cumulative effects analysis for watershed impacts is therefore arbitrary and contrary to NEPA.

This conundrum is precisely the reason that the Northwest Forest Plan states in no uncertain terms – “[d]o not use mitigation or planned restoration as a substitute for preventing habitat degradation.”⁶¹ The proposed action is therefore illegal on its face and contrary to the requirements of the NFP.

Moreover, the description of the proposed action is inadequate to allow for informed public participation. Because the Forest Service failed to inform the public of the restoration component during scoping, and because this public comment period takes place during the winter and spring season when the ski area is covered by snow, the public has been unable to visit the site to view the existing conditions of the proposed restoration sites. Our organizations, in particular Friends of Mt. Hood, have years of experience reviewing proposed restoration and revegetation efforts on Mt. Hood, including the environs of Mt. Hood Meadows. We know first hand that it can be very easy to write of revegetation and surface water management in a planning document, but on-the-ground it can be extremely difficult to carry out these projects in sensitive, high-elevation environments with steep slopes, erosive volcanic soils and short growing seasons.

In short, without a site visit to document the existing conditions, the public cannot meaningfully participate in a consideration of the restoration projects, their efficacy and any potential beneficial impacts to watershed conditions. The PA further fails to provide any photographs or other evidence of existing site conditions, and we also note that the Draft BA fails to list a site visit or any other assessment of the restoration locations in its methodology.⁶² Furthermore, the PA described extensive field work by RLK and Gravity Logic to develop the trail system, in addition to consultation with the ID Team, but the PA does not discuss what, if any, field work went into identifying and developing the restoration component and the project.⁶³ Without this critical information, our organizations, as well as Mr. Rhodes, are unable to provide meaningful input into the design and predicted impacts of the project.

B. The Forest Service Fails to Consider a Reasonable Range of Alternatives

⁶¹ NFP Standards and Guidelines at C-37 (standard WR-3).

⁶² Draft BA at 17.

⁶³ PA at 35-36.

NEPA requires the Forest Service to “rigorously explore and objectively evaluate all reasonable alternatives.”⁶⁴ As the NEPA regulations state, the alternatives analysis is the “heart” of the planning document.⁶⁵ NEPA alternatives must “‘be given full and meaningful consideration,’ whether the agency prepares an EA or and EIS.”⁶⁶ The “selection and discussion of alternatives fosters informed decision-making and informed public participation.”⁶⁷

The alternatives analysis in the PA is woefully inadequate and fails to provide either for informed decision-making or informed public participation. As we set forth in our scoping letters, and as the Forest Service concedes in the PA, the demand for downhill mountain biking is a regional issue. The Forest Service predicts that the Timberline bike park will at first take customers from Ski Bowl but that eventually customers from around the region will travel to the specific location of Mt. Hood to use the bike park.⁶⁸

The Forest Service must therefore consider other alternatives for providing downhill or free-ride mountain biking opportunities in the region. Only by doing so, can the Forest Service make an informed decision on whether regional demand is able to support the proposed bike park and whether the proposal is the best means for meeting whatever demands actually exists for these facilities. As discussed in our scoping comments, those other alternatives should consider both lift-served facilities and trails that require uphill travel from riders. There may be many other locations for these types of facilities, both on the Mt. Hood National Forest or other areas within the region, which have not been explored by the Forest Service. Any decision to move forward in the absence of such an analysis is contrary to the most fundamental requirement of NEPA. In the PA, the Forest Service fails to acknowledge anywhere that the public recommended a regional review of other alternatives and therefore has failed to set forth any reasoned basis upon which we can comment for excluding those alternatives from further review.

As an example, the BLM and the Oregon State Parks have been working with the Northwest Trail Alliance and other recreational groups to identify and plan free-ride opportunities on public lands throughout the Pacific Northwest, including Black Rock, Sandy Ridge, Post Canyon and Stub Stuart.⁶⁹ These examples demonstrate that public

⁶⁴ 40 C.F.R. § 1502.14(a).

⁶⁵ 40 C.F.R. § 1502.14.

⁶⁶ *Ctr. for Biological Diversity v. Nat’l Hwy. Traffic Safety Admin.*, 538 F.3d ___, 1218 (9th Cir. 2008) (quoting *Native Ecosystems Council v. U.S. Forest Serv.*, 428 F.3d 1233, 1245 (9th Cir. 2005)).

⁶⁷ *California v. Block*, 690 F.2d 753, 767 (9th Cir. 1982).

⁶⁸ PA at 142.

⁶⁹ See the following links:

<http://nw-trail.org/ride-report/2405>

http://www.blm.gov/or/resources/recreation/site_info.php?siteid=395

http://brmba.org/index.php?option=com_content&view=article&id=274&Itemid=132

agencies have been successful in creating and managing free-ride opportunities for the mountain biking community in ways that do not require lift-service and do not impact existing, historic structures and resources like Timberline Lodge. Here, the Forest Service must clearly identify the need for this activity – what market the agency is attempting to serve with this proposal – and it must then look at other alternatives to meeting this demand as has been done in cooperation with the public in many other locations around the Pacific Northwest.

A soon-to-be released documentary movie describes three National Forests that worked with rider groups to create non-lift volunteer parks at Leavenworth, Washington, Bend, Oregon and Oakridge, Oregon. The Mt. Hood National Forest has not followed the excellent example set by its neighboring forests.

The Forest Service cannot simply assume, without looking at any other alternatives, that Timberline Lodge is the only solution. NEPA prohibits this exact type of shortsighted, narrow analysis to ensure that the decision maker considers fully the environmental ramifications of the project and makes a fully informed decision.

The Forest Service's acknowledgement of the significant adverse sedimentation likely to occur and the decision to include a restoration component to the project also gives rise to other reasonable alternatives that must be considered. As discussed in the comments prepared by Mr. Rhodes, there are serious controversial questions as to the efficacy of restoration and revegetation efforts in the high-elevation environment of Mt. Hood as well as the timing of the benefits to the watershed that result from those activities. Those significant controversial issues call into question the Forest Service's *assumptions*, made in the Draft Biological Assessment, that the design features, best management practices and revegetation efforts will be effective.⁷⁰

To address these significant uncertainties and controversy, we strongly encourage the Forest Service to consider a *staged alternative* if it insists on moving forward with its illegal plan of using restoration to offset or mitigate otherwise significant adverse impacts from sedimentation. In particular, the Forest Service should first implement the proposed restoration projects, monitor the results to ensure that they are effective, and then construct the bike park after the agency has confirmed that the restoration activities have, in fact, been effective at reducing sedimentation, road density and adverse impacts to the watersheds of the project area. In doing so, the Forest Service could ensure, as opposed to assume, that difficult high-elevation restoration activities on steep slopes with volcanic soils are actually effective before additional negative impacts to the watershed take place.

Given the agency's recent findings regarding the significant adverse impacts from sediment associated with the project, it should also consider an alternative that limits the size of and therefore the impacts of the proposed trail network. With only one trail design set forth in the PA, the Forest Service has no way of knowing whether an

http://www.nps.gov/archive/pwro/rtca/or_state_fact_sheet_2009.pdf

⁷⁰ Draft BA at 18.

alternative trail network could be designed that would limit and reduce the impacts to watershed health and aquatic habitat. This analysis must be set forth in the PA so that the public and the Forest Service can make a decision with the benefit of complete information on environmental impacts.

C. The PA Failed to Assess the Effectiveness of the Proposed Mitigation Measures.

The NEPA regulations define mitigation as a limitation on the proposed action, such as “not taking a certain action or parts of an action,” “limiting the degree of magnitude of the action and its implementation,” or “repairing, rehabilitating, or restoring the affected environment.”⁷¹ An environmental assessment must describe the proposed mitigation measures “to a reasonable degree” and must do more than set forth a “perfunctory description” or a “mere listing” of the proposed measures.⁷²

The Forest Service can rely on mitigation measures in determining that project impacts will not be significant and therefore preparation of an EIS is not necessary.⁷³ In order to do so, however, the agency must demonstrate that those measures will reduce the impacts below the level of significance.⁷⁴ The agency must provide analytical data on the efficacy of the proposed measures that can be used to demonstrate that mitigation “will render such impacts so minor as to not warrant an EIS.”⁷⁵ As an example, courts have upheld mitigation measures where the agency “discussed the monitoring measures to be put in place, ranked the probable efficacy of the different measures, detailed steps to achieve compliance should the measures fail, and identified environmental standards by which mitigation could be measured.”⁷⁶

Here, the Draft BA acknowledges that the construction of the bike trails and the numerous stream crossings in the Riparian Reserves will “significantly increase short term and long term fine sediment into Still Creek and the West Fork Salmon River.”⁷⁷ Moreover, the amount of sediment generated by the bike park is based upon the assumption that construction and maintenance of the bike park will take place in “dry” conditions.⁷⁸ “To ensure that Bike Park is operated and built under conditions that meet the standards identified in the model, a suite of operational PDC’s have been identified.”⁷⁹

⁷¹ 40 C.F.R. § 1508.20(a)-(b).

⁷² *Nat’l Parks and Conservation Ass’n v. Babbitt*, 241 F.3d 722, 734 (9th Cir. 2000).

⁷³ *Id.*

⁷⁴ *Id.*; see also *Fdn. For N. Am. Wild Sheep v. U.S. Dept. of Agric.*, 681 F.2d 1172, 1178 (9th Cir. 1982).

⁷⁵ *Nat’l Parks and Conservation Ass’n*, 241 F.3d at 734.

⁷⁶ *Okanagon Highlands Alliance v. Williams*, 236 F.3d 468, 473 (9th Cir. 2000).

⁷⁷ Draft BA at 38.

⁷⁸ *Id.*

⁷⁹ *Id.*

In the absence of mitigation, therefore, the Draft BA acknowledges that impacts of fine sediment would be significant, a conclusion that is reinforced by the presence of several species of salmonids that are listed as threatened as well as the BA's acknowledgement that the area is already functions at risk or not properly functioning in many respect. The Forest Service, therefore, must assess and disclose the efficacy of the mitigation measures in order to avoid preparation of a more searching and thorough EIS.

Instead, the Forest Service has done little more than set forth a "perfunctory description" or a "mere listing" of design criteria, which have been rejected by courts as inadequate pursuant to NEPA's environmental analysis and disclosure requirements.⁸⁰ The PA includes a list of the Project Design Criteria but does not include any discussion of whether those measures will be effective at reducing sedimentation.⁸¹

This oversight is critical, because as discussed in the comments prepared by Mr. Rhodes, the PA fails to provide any credible scientific evidence that the proposed restoration activities and project design criteria eliminate or offset disturbance effects. Subsoiling of roads, for instance, will not completely restore infiltration rates or vegetation until many years after the roads have been subsoiled. Similarly, revegetation efforts are often ineffective or transient and have a high rate of failure in high elevation areas with fragile soils and challenging growing conditions. As Mr. Rhodes states, "the assumption that mitigation is effective under the proposed project is unsound and results in vastly overestimated reductions in sediment delivery from these activities."⁸²

Moreover, we have serious questions regarding the efficacy of PDC Soil-11 in which the Forest Service claims that bike park construction and operation "would be suspended if there is more than 1 inch of rain in a 24-hour period and/or the Bull Run River above the reservoirs exceed 200 cubic feet per second"⁸³ As Mr. Rhodes discusses, the Forest Service does not have a scientific basis for concluding that this standard protects against bike park operations in wet conditions, because the trails are extremely likely to develop wet, muddy conditions when it rains less than 1 inch in a 24 hours period. This PDC also fails to account for the trails intercepting shallow sub-surface groundwater flows, which are also likely to contribute to wet surface conditions.

We also, however, have very significant concerns regarding the practicality of implementing and enforcing this requirement. The Forest Service has not included any estimate of how many days during the season this PDC will interfere with bike park operations. Many mountain bikers, in fact, love to ride in wet, muddy conditions. There will be excessive financial and customer relations pressure on RLK to keep the bike operating even though the trail system may be "wet" pursuant to the flawed standard of PDC Soil-11. We can only imagine the conflicts that could arise with several hundred

⁸⁰ *Nat'l Parks and Conservation Ass'n*, 241 F.3d at 734.

⁸¹ PA at 27-34; *see also* PA at 39-41 (discussing "*Project Design Criteria that minimizes the environmental impacts caused by trail and skills park*").

⁸² Rhodes Comments at 10.

⁸³ PA at 41.

mountain bikers who, pursuant to the Forest Service's own estimate, have traveled to Timberline Lodge from elsewhere in the region just to ride the mountain bike park, only to find that the park is closed because 1.1 inches of rain have fallen over the last 24 hours. What will happen when a major race has been scheduled, and there are fans lining the course - will RLK shut down the event because of 1.1 inches of rain?

The PA makes no reference to rainfall records for the purpose of predicting the number of operational days in correlation to a financially feasible business plan. Has the Forest Service incorporated the impact of this mitigation measure on the projected number of days that Timberline operates during the year and therefore the revenue from the project operations? If not, then the agency is simply setting up a recipe for disaster, whereby RLK is struggling to meet financial projections that are not based on the operational limitations imposed by the Forest Service to protect the environment of Mt. Hood and the Timberline Lodge area. The Forest Service must disclose whether it has any information suggesting that there are other examples of mountain bike parks successfully closing operations during wet conditions and how the Forest Service intends to enforce this requirement and address harm to the environment should this measure be ineffective.

In sum, the discussion of mitigation measures in Chapter 2 and the PA in general is fundamentally flawed. NEPA required more than a simple listing of measures and then an unjustified assumption that those measures will be effective at reducing or mitigating impacts to the environment. Here, given the highly controversial nature of the project, its setting and the use of restoration activities to mitigate otherwise significant impacts to aquatic habitat, the Forest Service must determine, with full public input, whether the proposed measures will actually be effective.

VI. Chapter 3 – Environmental Consequences

We have a number of concerns and comments regarding the analysis of environmental consequences set forth in the PA. For ease of review, we have organized those comments in order in which they appear in the PA.

Pg. 38-41 – Soils. The draft soils report is based on three key flawed assumptions that render the conclusions in the PA arbitrary and contrary to the requirements of NEPA.⁸⁴ In particular, the author of the report assumes: 1) that riders would follow the rules for the area; 2) PDCs would be followed and would be effective at reducing impacts; and 3) the restoration activities would be effective and would offset impacts. As discussed, NEPA requires that the Forest Service discuss in detail applicable mitigation measures, including a rational discussion of whether and to what extent those measures will be effective. By simply assuming that those measures will be effective without discussing how the agency reached those conclusions, the Forest Service has failed to set forth necessary information allowing the public to understand the basis for its decision.

⁸⁴ Draft Soils Report at Analysis Assumption (unnumbered pages).

As an example, we understand that Snow Summit ski area in California had to exclude mountain bikes because of forest damage caused by riders who were cutting their own trail through the ski area.⁸⁵ The ski area was unable to control this issue and finally made the decision to simply close the area to mountain biking. This example demonstrates that the Forest Service cannot simply assume that its mitigation measures will be effective. The Forest Service must discuss other examples from around the country where lift-served mountain bike parks have been built, disclosing to the public whether measures such as prohibiting off trail riding have, in fact, been effective at preventing environmental damage.

Pg. 38-41 – Soils. The PA fails to discuss or apply the binding standards and guidelines of the Mt. Hood LRMP relating to soil quality. The Forest Service must therefore republish the PA, providing the public with an opportunity to review and comment on the agency’s application and compliance with these binding standards and guidelines.

Pg. 38-41 – Soils. The PA ignores the risk of soil compaction, which must be discussed and set out in the document for public review and input.

Pg. 38-41 – Soils. The PA should discuss the potential impacts from riders that will travel from the Timberline Bike Park down to Government Camp, potentially creating new trails and disturbance areas or increasing use and erosion of the existing trail network. These activities will be outside the bike park and therefore not subject to the PDCs set forth in the PA.

Pg. 39 – Soils – Direct and Indirect Effects. The PA admits that there is a risk of erosion, but it never addresses what impact that erosion will have on the forest, wildlife, plant communities, aquatic habitat, recreational users (i.e. dust) or the Lodge itself.

Pg. 39-40 - Soils – PDCs. The PA needs to address the environmental impacts of implementing the PDC, in particular PDC Soil-1 involving rock armoring and PDC Soil-7 relating to straw and mulch. How will that material be hauled to the site and what impact will transport of that material have on soils and surrounding vegetation?

Pg 38-41 – Soils - Cumulative Effects. The cumulative effects section of the PA is inadequate. In the Observed Road and Trail Erosion section, the PA acknowledges that there are already significant failures to maintain drainage structures and existing roads, resulting in erosion and compaction. Any new potential impacts will be added to the existing failures, and yet this is ignored in the cumulative impacts section.

Moreover, the PA again assumes without any analysis that the restoration activities will be effective at offsetting the impacts of the proposed trails, relying on the estimate of sedimentation contributed to the stream system. This assumption is plainly fallacious, as the bike park will result in new additional disturbances to soil resources. The restoration activities may, over time, help to reduce sedimentation and prevent future losses of soil in

⁸⁵ http://www.bigbearmountainresorts.com/summer/big-bear-mountain_biking.php

already disturbed areas, but they will not immediately restore disturbed areas to an undisturbed condition. The project, therefore, will most certainly result in a net loss of soil resources by causing additional disturbance by the construction of trail in a forested environment, resulting in new areas of erosion and compaction. The proposed restoration activities simply will not add to the soil resources in the area such that it would offset additional impacts from the construction of the bike park and the disturbance of new areas.

The PA also concludes that restoration activities have been successful in other places on the mountain but fails to provide any information on those other locations. In our experience, restoration, including revegetation, has been extremely challenging in other high-elevation areas of the mountain, including Mt. Hood Meadows and the Timberline Ski Area. We request that the Forest Service discuss in detail restoration and revegetation efforts from other sites of similar elevation with similar soil conditions.

Pg. 56-57 – Peak streamflows. See the comments from Mr. Rhodes regarding the flaws in the analysis of impact to peak flows as well as the unjustified assumption that any increase in peak flows less than 10% will not have an adverse impacts on the watershed.⁸⁶

Pg. 59-63 – Sediment yield. See the comments from Mr. Rhodes regarding the flaws in the sediment yield analysis.⁸⁷

Pg. 66 – Compliance with Mt. Hood Land and Resource Management Plan Standards and Guidelines. The PA fails to provide information on whether and how the PA complies with LRMP standards and guidelines related to water resources. Specific standards at issue include, without limitation:

- FW-058 (requiring discussion of “ability to implement and estimated effectiveness of” BMPs at the project level)
- FW-060 (prohibiting practices “causing detrimental . . . deposits of sediment”)
- FW-062 (35% of area available for vegetative manipulation in a hydrological disturbed condition)
- FW-063 (watershed impacts shall not exceed 35 percent)
- FW-064 (watershed impacts to the subbasin or area analysis level should not exceed 35 percent)
- FW-065 (exceedance of thresholds of concern for watershed stability)
- FW-078 (maintaining natural infiltration and permeability of groundwater recharge areas)
- FW-080 (10 percent disturbance of riparian management area)
- FW-082 (no more than 5 percent of project activity area in a compacted, puddle, or displaced soil condition)
- FW-082 (95 percent ground cover)

⁸⁶ Rhodes comments at 12-13.

⁸⁷ *Id.* at 7-10.

- FW-084 (activities should not accelerate sediment delivery to streams, seeps and springs)
- FW-087 (existing habitat complexity should be maintained or increased)
- FW-097 (less than 20 percent fine sediment levels in spawning habitat)
- FW-099 (less than 25 percent embeddedness in riffles)
- FW-101 (maintenance of stream substrate for sensitive macroinvertebrate species)
- FW-104 (streambank stability of riparian management area shall be maintained in its natural condition)
- FW-103 (if existing streambank condition is degraded due to past management activities, the natural condition should be restored)
- FW-105 (95 percent effective ground cover)
- FW-106 (80 percent maintenance of riparian management area stocked with old-growth or mature forest)
- FW-113 (no more than 10 percent cumulative increase in turbidity)
- FW-123 (effective ground cover)
- FW-129 (limitations on sediment loading)
- FW-132 (channel and bank stability for class IV streams, seeps, springs and headwaters)
- FW-137 (maintain fish habitat capability)
- FW-138 (impacts on habitat for MIS shall be determined in terms of habitat quality, quantity, and distribution)

This is a non-exhaustive list of the relevant standards and guidelines that relate to aquatic resources from the Mt. Hood LRMP that the Forest Service has ignored in the PA. In general, the PA fails to address numerous LRMP standards and guidelines relating to wildlife, soil resources, and aquatics. We ask for specific clarification on each of the LRMP standards and guidelines that apply to the project and whether and how the Forest Service is complying with those requirements.

Pg. 68 – Riparian Reserves. As discussed above, the Forest Service fails to discuss standard WR-3 from the Northwest Forest Plan, which prohibits the approach used here by the Forest Service of using restoration projects to offset or mitigate impacts to aquatic habitat. As discussed in the comments from Mr. Rhodes, the PA also fails to include an adequate discussion of impacts to Riparian Reserves.⁸⁸

Pg. 69-74 – Aquatic Conservation Strategy Consistency Findings. Again, as discussed above and in the comments from Mr. Rhodes, the discussion of consistency with the ACSOs is fundamentally flawed, because the agency relies on restoration projects to mitigate impacts to watershed resources from sedimentation delivered to the stream network by stream crossings within the Riparian Reserves. Furthermore, the numerous inaccuracies in the agency's estimates of the impacts of sedimentation must be corrected, which will bear on the analysis of consistency with the ACSOs.

⁸⁸ *Id.* at 4-7.

Pg. 74 – Watershed Processes – Cumulative Effects. We strongly object to the Forest Service’s failure to conduct a cumulative effects analysis, which is required by NEPA.⁸⁹ The agency must assess “the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions.”⁹⁰ The Forest Service’s decision to forego preparation of a cumulative effects analysis because no direct or indirect effects are associated with the project is fundamentally flawed. In fact, the project will result in a significant adverse increase in sedimentation, but the agency claims that restoration will offset or mitigate that increase. The need for a cumulative effects analysis is demonstrated because the existing problems are caused by prior management activities. If the agency added the detrimental impact from past projects to the detrimental impacts from this project along with any predicted benefits from the restoration activities, it may very well likely conclude that the watersheds require active restoration *without* any further degradation.

Pg. 75-100 – Wildlife

Before delving into the specifics of this section, it is worth noting that nowhere does the agency describe how it is using its authority to fulfill its affirmative duty to carry out programs for the conservation of listed species as mandated by section 7(a)(1) of the Endangered Species Act.⁹¹ Please describe how the Mt. Hood is fulfilling this obligation.

As the PA notes, the habitat in this relatively natural forest spans an elevation range of 4,800 to 6,000 feet and includes stands of old-growth forest, resulting in utilization of the project area by specialized species only in summer months,⁹² exactly the same period as when large numbers of mountain bikers would be utilizing the proposed trail network and skill park. Impacts to wildlife including deer and elk and rare and uncommon species, including Survey and Manage Species, are likely to be significant.

Pg. 75 – Northern Spotted Owl. The PA states that there “are no known spotted owls nesting above 4600 feet elevation.” The project area’s lowest elevation, however, is at 4200 feet. Moreover, the project area could also provide roosting or foraging habitat. Please describe what surveys or other data, if any, the Forest Service used in reaching this conclusion.

Pg. 75 – Management Indicator Species. See discussion above regarding the agency’s failure to apply the correct planning regulations.

Pg. 75 - Effects to Sensitive Species and Other Rare or Uncommon Species.

⁸⁹ 40 C.F.R. § 1508.7; *see also Or. Natural Res. Council v. Bureau of Land Mgmt.*, 470 F.3d 818, 822 (9th Cir. 2006)

⁹⁰ 40 C.F.R. § 1508.7.

⁹¹ 16 U.S.C § 1536(a).

⁹² PA at 75.

- Johnson’s Hairstreak Butterfly is a rare butterfly with extremely specific habitat requirements.⁹³ The use of pesticides or herbicides could reduce the viability of populations,⁹⁴ yet this possibility is not given even the most cursory analysis in the PA. In addition, the PA fails to explore the possibility that western hemlocks, which provide habitat for dwarf mistletoe and subsequently Johnson’s Hairstreak butterfly, could experience a decrease as a result of trail construction, removal of hazard trees, or impacts of mountain bikes on their root networks. A more thorough analysis of impacts to this species is required to justify the “may impact individuals, but not likely to cause a trend to federal listing or loss of viability to the species” (MII-NLFL) for this species.
- California Wolverine have not been confirmed on Mt. Hood,⁹⁵ however, this project would be implemented in what would be high quality wolverine habitat if left undisturbed. While wolverines may not currently use this area, building seventeen miles of trails will virtually ensure that no wolverines will ever be able to use the project area.⁹⁶ The impacts of this project on the potential for wolverine recovery should have been considered.

Pg. 80 – Northwest Forest Plan Mitigation. Malone’s jumping slugs are a Survey and Manage species found in the project area rather unexpectedly, due to the fact that this area is above the known area and the protocol elevation for the species.⁹⁷ While much has been learned about this species since its initial designation as a Survey and Manage species, this was still something of a surprise and should serve as a cautionary tale to never discount the possibility of species existing in previously unexpected habitat. While the species may currently be abundant in the project area, no evidence exists to indicate that building a mountain bike park squarely in its habitat would not threaten its existence. It is possible that Malone’s jumping slugs in the project area are a genetically distinct population uniquely suited for high elevations. The proposed action would lead to an increased possibility that herbicides and pesticides may be used in the project area, leading to risk of mortality for the species. In addition, mountain bikers may both run over slugs crossing trails and disturb their habitat if they take breaks from riding to sit on down logs. The potential for impacts to this Survey and Manage species is significant.

The PA was also less than clear in regards to whether the Forest Service conducted the required surveys for each of the survey and management species. Please clarify whether the required surveys were conducted, and, if so, if the required buffer and management requirements were implemented.

Pg. 84 – Red Tree Vole. We request that the Forest Service conduct red tree vole surveys for the area. The PA concedes that it is possible that red tree voles could utilize forests above 4200’ in elevation, and any voles in this area could represent an important and unique component of the population. Moreover, the Forest Service should consider the

⁹³ PA at 76. *See also* <http://www.xerces.org/johnsons-hairstreak/>

⁹⁴ *Id.*

⁹⁵ PA at 78.

⁹⁶ PA at 79.

⁹⁷ PA at 83

potential impacts to tree voles in the context of climate change and the importance that this habitat could provide in the future as voles move to higher elevations in response to warming conditions.

Pg. 85 – Snags and Down Wood. The proposed action would lead to the inevitable cutting of hazard trees including snags.⁹⁸ Unfortunately the effects analysis for the proposed action fails to consider the impacts of snag removal in this specific area, instead focusing on the relative abundance of snags in the entire 5th field watershed.⁹⁹ The project area does not have the same abundance of snags as other areas, thus each snag is relatively significant and this significance should be reflected in the analysis.

Pg. 95-97 – Deer and Elk Habitat. The impacts of the proposed action on deer and elk are substantial and these impacts alone are an excellent reason for the Forest Service to select the no action alternative. The Forest Service acknowledges that heavy bike traffic would likely exclude deer and elk from the area because the project could lead to increased stress, habitat alterations, and collisions/mortality.¹⁰⁰ The entire project area is within elk summer range and provides excellent habitat that would no longer be usable.¹⁰¹ The Forest Service should disclose what percentage of summer range or B11 would be lost to this project. This is some of the best summer range and forage in the area and a gentle slope which elk prefer. Research by Wisdom et al. found elk response to roads open to the public (which the document also states the mountain bike trails would mimic) as far as 4 km away. Thus not only will the project disturb elk and preclude their use of this essential forage site during the critical time of summer, but one could expect disturbance to elk up to *4 kilometers away from the project area*. The PA therefore under analyzes the true effect saying it would be negative, but really this type of project would affect the productivity of the local herds based on nutrition requirements for cows reproducing thus affecting viability of local herds and thus population trends. The PA posits that some nighttime use may still occur but fails to explore the impacts the decreased ability for resting time would have on populations and their viability. Please provide whatever scientific support is available for that conclusion, if any. Moreover, the Forest Service must determine what impact displacement from the project area would have on local and regional deer and elk populations, other agencies such as ODFW, the Confederated Tribes of Warm Springs Reservation, and individuals who both enjoy viewing and hunting elk.

The PA fails to consider or even acknowledge Dr. John Cook and Rachel Cook's work on nutrition limitations, specifically the importance of summer forage quality, quantity, and availability, and impacts on elk productivity i.e. thus viability which is a threshold this analysis uses for elk and says it will not affect elk viability. The DDE (Dietary Digestible Energy) analysis for the area, developed for the Westside elk nutrition model/equation by the Cook's, shows nutrition limitations and low quality

⁹⁸ PA at 91.

⁹⁹ PA at 92.

¹⁰⁰ PA at 95, 96.

¹⁰¹ PA at 96, 97.

forage availability across the landscape meaning that the forage is already limiting elk productivity (shown in Dr. John and Rachel Cook's research) and thus stressing and verifying the importance of all available food specifically during the critical period of summer as shown by the Cook's research. Minimally the analysis should consider Cook's research as it is the best available science on nutrition implications.

Additionally and perhaps the most important is the total lack of consideration of the potential effects to the calving area, abandonment of calves by cows due to human disturbance, and potential effects of both abandonment and also predation on calves due to disturbance of cows by humans and bikes. Bruce Johnson of the F.S. Pacific Northwest Starkey Research Station and his students have numerous studies quantifying these effects. The PA fails to discuss the best available science as it relates to the impacts of the project on calving caused by human disturbance.

Moreover, the cumulative effects analysis of impact to deer and elk is inadequate.¹⁰² The Forest Service must determine the cumulative impact to the species – here the chart simply lists the project and the type of impact involved, but it does not include any conclusion on the overall impacts to deer and elk populations.

Pg. 99 – American Marten and Pileated Woodpecker. The PA states that both American Martens and Pileated Woodpeckers have a high tolerance for human disturbance but fails to provide anything but anecdotal evidence for this conclusion.¹⁰³ While they might be seen around humans no evidence exists to indicate that human disturbance does not impact their life cycles. Additional research into whether human disturbance impacts breeding or other components of viability is necessary before the conclusion that this project would have little effect on these two management indicator species.

Pg. 100 – Migratory Birds. The PA describes a MOU that directs the Forest Service to protect, restore, enhance, and manage habitat of migratory birds, and prevent the loss or degradation of remaining habitat.¹⁰⁴ However, the PA fails to describe how the Forest Service is adhering to this MOU in its consideration of the proposed action, indeed it notes that nesting habitat would be reduced along the trails.¹⁰⁵ Please describe how the action would comply with the MOU.

Pg. 101-123 - Botany

A. Restoration and Revegetation

As the PA notes, incursion by mountain biking trails in subalpine and high montane vegetation types is likely to remove native, sensitive vegetation from the project area. The PA concedes in the botany section that it “takes a long time for such

¹⁰² PA at 97.

¹⁰³ PA at 99.

¹⁰⁴ PA at 100.

¹⁰⁵ *Id.*

pioneering high-elevation plant species to colonize timberline environments characterized by a short growing season (July-September), long winters with persistent snowpacks (November-June), and extremely nutrient-poor soils.”¹⁰⁶

Based on these conditions, the PA states that “efforts to restore sparsely vegetated timberline habitat . . . will be challenging.”¹⁰⁷ This statement is in stark contrast to other places in the PA, where the Forest Service simply assumes for sake of analysis that mitigation measures will be implemented effectively. Revegetation and restoration following the Timberline Express project led to introduction of invasive non-native plants, and much of the revegetation of native plants failed. Continued reliance on these methods for addressing soil and vegetation disturbance is not likely to be any more successful, a fact that the Forest Service must disclose to the public pursuant to the NEPA process.

Moreover, the Forest Service should not use non-native annual ryegrass. Disturbance should not be allowed until there is an adequate local stock of native vegetation to meet revegetation needs. Establishment of non-native species to “restore” areas disturbed by the proposed project will further exacerbate fragmentation and loss of habitat.

B. Introduction of Non-Native Plants or Plan Pathogens

The PA correctly notes that trail construction and mountain bikes will likely introduce non-native, invasive species into a project area currently occupied by native, high-elevation and sensitive plant communities.¹⁰⁸ The PA, however, fails to discuss what impact the introduction of non-native, invasive species will have on existing native vegetation.

Many of the non-native plants identified as having the potential to establish in the project area are ecosystem modifiers. Unlike the relatively benign white clover and bird's-foot trefoil that were introduced as a result of the Timberline Express project, plants like Canada thistle which spread rhizomotously, or garlic mustard which can replace the entire understory community are nearly impossible to control once established and very significantly impact native plant communities. The threat of invasion is identified as moderate to high if the proposed project is approved. Given the high likelihood of invasion by these plants, which are likely to form monocultures and/or facilitate invasion by other non-native species, the conclusion that the project is unlikely to lead to a trend toward listing of sensitive species seems unjustified. Without analyzing the impacts to existing vegetation resulting from the introduction of nonnative species, the PA’s overall conclusion about impacts to sensitive plant species is arbitrary. A more thorough analysis of the specific impacts to sensitive species associated with establishment of these species is needed.

¹⁰⁶ PA at 106.

¹⁰⁷ *Id.*

¹⁰⁸ PA at 107-108.

The EA also fails to address what the impacts to sensitive and native species will be from controlling invasive plants. The PA states that the RLK will “[a]ggressively treat invasive plants by manual control or with herbicides.”¹⁰⁹ Regardless of the control method used, impacts to native species including sensitive species are likely with aggressive manual and/or chemical treatments (i.e. mortality from herbicide drift, trampling or burial of vegetative and reproductive structures during manual digging, etc). The PA also fails to disclose or consider the impacts to aquatic habitat resulting from aggressive use of herbicides in the project area. How will the Forest Service ensure that herbicides run-off does not pollute the sensitive, high-elevation headwaters of these important stream system?

C. Cumulative and Indirect Effects

The PA fails to adequately address the cumulative impacts to botanical resources. The botany report states that, if approved, the project will add another layer of disturbance to an area that has already been subjected to vegetation removal, soil disturbance and habitat fragmentation. The ecological impacts resulting from the project are much larger when viewed in terms of the cumulative impacts of past projects as well as potential future projects.

The project area previously experienced substantial disturbance as a result of other projects including the recent Timberline Express project and future projects within the special-use permit area are almost certain to occur. Thus cumulative impacts of this project on botanical resources should have been more carefully studied both in terms past and anticipated future impacts. This needs to include any potential expansions of the mountain bike trails and skills park, any activities contemplated in Timberline’s Master Plan, any activities contemplated outside the special use area that might have cumulative impacts when analyzed together with this project, and any other reasonably foreseeable activities. For example, Gravity Logic discussed with RLK the addition of Molly’s Express in a future expansion of the bike park. The analysis of cumulative impacts to vegetation only mentions that this is just another layer of disturbance, but it does not delve into any of the actual cumulative impacts to sensitive species, including an analysis of whether the combined cumulative impacts will, in fact, have a significant adverse effect or population level effect on sensitive plant species. The impacts of this project are further exacerbated by past, current and future forest management and recreation activities both inside and outside the special-use permit area. The EA fails to explain how cumulative impacts from other activities affect sensitive species in the area.

The PA fails to adequately consider the proposed action in the context of a changing climate, only mentioning climate change in a long list of factors reducing resiliency.¹¹⁰ The proposed action will impact subalpine and high-montane forests and meadows. Adequately addressing environmental impacts resulting from the proposed

¹⁰⁹ PA at 111 (Veg-8).

¹¹⁰ PA at 113.

project is even more important considering the potential for climate change to aggravate stressors affecting high-elevation habitats. High mountain ecosystems are considered particularly vulnerable to climate change, and rising temperatures will seriously fragment and diminish high elevation plant communities.

As an example, the Fish and Wildlife Service recently issued a 90-day finding stating that a petition to list the species under the ESA “presents credible scientific or commercial information indicating that listing” the whitebark pine may be warranted. In issuing the finding, the FWS noted that climate change presents unique threats to high-elevation species “incapable of migrating to more suitable habitat or unable to migrate due to human-caused landscape fragmentation.”¹¹¹

This project area is located in a sensitive, high-elevation ecosystem that is relatively rare on Mt. Hood and in the region. Moreover, this project will disturb and introduce invasive species into areas that are currently undisturbed. Given that the native, high-elevation plant communities will have limited options for adapting to climate change, it's important that we improve their resilience, not diminish it. The analysis in the PA is incomplete because it fails to take the requisite hard look at climate change impacts on this ecosystem and the impact the proposed action would have in the context of climate change. With 17% of forest habitat already lost in the permit area, planning for intentional and direct fragmentation and loss of additional habitat in the face of significant stressors like global climate change is unwise and likely to significantly impact sensitive species.

D. Inadequate Monitoring

The proposed project fails to provide adequate monitoring to ensure no significant impacts to sensitive species or their habitats. It is not clear how the Forest Service will ensure the success of revegetation efforts, and viability of sensitive species without sufficient monitoring. The only relevant plans for monitoring identified in the PA are an annual survey to check for invasive species (even though the potential invasive species listed do not all occur at the same time of year), a survey of trails done perhaps annually, to determine where revegetation is needed, etc., and monitoring of *R. nudum*. The PA provides no justification for the lack of monitoring to ensure no impacts to sensitive fungi potentially impacted by the proposed project.

E. Inadequate Surveys

The PA states that 31 special-status fungi have a reasonable likelihood of occurring in the proposed project area, but surveys were not conducted because they “are not considered practical so they are assumed to be present in the project area.”¹¹² The PA

¹¹¹ 75 Fed. Reg. 42033, 42037 (July 20, 2010).

¹¹² PA at 114.

also states that bike trails could result in the “extirpation of species at the site” and lists a number of potential negative impacts to these sensitive fungi.¹¹³

The PA then, however, concludes that the project is not likely to contribute to a trend towards federal listing or loss of viability to the population or species.¹¹⁴ This conclusion, which is not explained at all in the PA, simply conflicts with the conclusion that the bike park may extirpate these species from the project area. Some of these species, for instance, are known to occur at only 2-4 sites on the entire Mt. Hood National Forest.¹¹⁵ The PA assumes they are present in the project area, because the Forest Service refuses to utilize readily available survey methods, and the PA further assumes that these species could be extirpated from the project area, but it then, without explanation, concludes that such extirpation will not impact the viability of the population. The Forest Service must provide a reasoned explanation of its conclusions given the information on the rarity of the species and the potential impacts from the project.

Instead of guessing at the potential impacts, the Forest Service should simply take the time necessary to conduct adequate surveys of the proposed bicycle trails in the project area. We ask for further clarification on why the Forest Service deems these surveys to be impractical.

Pg. 124-130 – Heritage Resources

A. The proposed development will adversely affect the Timberline Lodge, a property listed in the National Register of Historic Places.

The PA fails to take into account imminent issues regarding adverse effects that the proposed Mountain Bike and Skills Park may have on the Timberline Lodge as required under the National Historic Preservation Act.¹¹⁶

The development of a Mountain Bike Park does not align with the development philosophy of RLK: “to create life-long memories by offering the best in historic lodging, fine dining and exciting, family-friendly skiing and snowboarding, backed by a high standard in service and hospitality, to every guest.”¹¹⁷ With the possibility of bikers parking in the upper lot placing additional demands on parking, especially on days devoted to bike events attracting large crowds, traditional users of the Historic Timberline Lodge may be excluded from visiting the site due to lack of parking, and encounter an environment that is not representative of the traditional use of the Lodge. In light of the site’s current summer uses such as skiing, hiking and visitors to the historic

¹¹³ PA at 122.

¹¹⁴ PA at 120-121.

¹¹⁵ PA at 114.

¹¹⁶ 36 C.F.R. § 800.1.

¹¹⁷ Timberline Conceptual Master Plan, pg 3, January 2009, RLK and Co.

lodge, the Forest Service should respect the existing uses and take into account the detrimental effect of the proposed development.

We also note that the Forest Service has not measured the summer parking capacity.¹¹⁸ The Master Plan, however, calls for another 800 parking spots. Again, the Forest Service must conduct a cumulative impacts analysis to determine whether the additional demands placed on the parking facilities by the bike park and large event crowds will eventually result in development of the 800 parking spaces that have already been proposed in the Master Plan.

The PA states in a conclusory fashion that no adverse effects will occur to Timberline Lodge's Historic Landmark status. As a historic landmark that is world-renown due to its unforgettable prominence in Stephen King's *The Shining*, Warner Brothers 1980 motion picture, visitors may be sorely disappointed when upon their visit to the historic landmark they encounter mountain bikers. Visitors likely expect the atmosphere to represent that of a traditional ski lodge. With respect to Timberline Lodge's historic status, RLK's special use permit should not allow an activity that has such detrimental effect on the visual historic value. Moreover, the USFS must consider the potential adverse effects such activity will have on a traditional visitor's ability to enjoy the art and architecture of Timberline Lodge as well as the landscaped environs, which includes the restored outdoor amphitheater, all contributing elements to the landmark designation.¹¹⁹

The original application to list Timberline Lodge as a National Landmark illustrated the importance of preserving the fragile ecosystem in which the Lodge was built. Lodge landscape architect A.D. Taylor pointed out, "to minimize long-term effects of disturbing the natural ground, [it is necessary to pay] attention to root structures of existing groups of trees, the width and alignment of the final section of approach road, the placement of footpaths, disposition of excavation materials."¹²⁰ Because of this impressive approach by Taylor, Timberline Lodge received national recognition. To allow for a project that would further degrade the environment of the Mount Hood National Forest would be in direct conflict with the policies that allowed for Timberline Lodge to become a National Historic Landmark. The PA does not address the possibility of a large and constant cloud of dust during operating hours, which may contribute to air pollution and effect the historic southern viewscape.

B. The proposed park may have significant impacts on the cultural heritage of the Timberline Lodge area.

¹¹⁸ PA at 155.

¹¹⁹ 36 C.F.R. § 800.1

¹²⁰ National Register of Historic Places Inventory, Nomination form for Timberline Lodge, p. 186, 1977.

Considering the traditional use of horses to travel the Columbia Plateau and surrounding areas,¹²¹ RLK should preserve this unique cultural area to allow travelers along the Pacific Crest Trail to experience the landscape as it existed prior to development. Although field studies conducted between August 4th and October 5th, 2010, revealed no new archeological properties, a review of ethnographic studies showed cultural use areas within the proposed project site.

Further, the PA does not clearly demonstrate that the USFS has addressed all issues regarding cultural resources required under the Forest Service Management Plan for Mount Hood. Specifically, how does the PA address the preservation goals of the historic context of the area? To what level have any involved Native American tribes had the opportunity to submit input on the development and its impact on the cultural integrity of the area? Has the Forest Service consulted with the State Historic Preservation Office?

C. The West Leg Road represents the historic nature of the area, and should be preserved in its current state. Development of the Bike Park would have a detrimental effect upon the historic value of the road.

West Leg Road was deemed eligible for inclusion on the National Register of historic places in September 17, 2004.¹²² As a historic road, RLK has failed to analyze the impact mountain bike trails will have on the public's enjoyment of such a treasured scenic passageway. With bikes zooming past the edge of West Leg Road, it is doubtful that the historic area will be enjoyed, as it would have been prior to the development of the proposed Timberline Mountain Bike Trail and Skills Park.

The PA fails to address any detrimental effects the Timberline Mountain Bike Trail and Skills Park may have on West Leg Road. Although RLK claims no effect on the road's physical characteristics or alignment, the presence of mountain bikes and six individual crossings of the historic road will unquestionably change the experience when traveling along West Leg Road. As required under the forest management plan, the PA needs to disclose how RLK proposes to develop its preservation goals in order to preserve the nomination of the historic road.

D. The proposed project may cause detrimental effects on the vegetation currently existing in the area.

Since this vegetation is integral to the traditional plant gathering, the PA needs to address it in greater depth. The PA states that it will try to avoid such vegetation when possible, and if destroyed, will plant new vegetation outside the bike trail.¹²³ RLK needs

¹²¹ PA at 125

¹²² PA at 127.

¹²³ PA at 129.

to provide objective determinations as to how to go about this process. Further, how will the mitigating effects of such an action be measured?

Because of the cutting of certain trees to make way for the proposed trails, RLK needs to analyze the risk to certain culturally valuable trees such as old growth Hemlock and White Bark Pine. Although the PA develops a goal of no large tree cutting, this is insufficient to protect the cultural values of the present forest growth in the area.

Pg. 139-140 – Recreation – Mountain Biking. See above comments regarding the PA’s estimates of visitation. The Forest Service must provide any and all underlying data and methodologies used to estimate visitation to the bike park.

The Forest Service has also admitted the downhill, lift-served mountain biking is a niche market. The agency must clarify whether it has any information on local or regional demand for this niche market and whether the Thornton, 2000 study addresses this niche market or rather mountain biking generally.

Pg. 140-141 – Recreation – Developed Recreation. The Forest Service must address whether the development of the bike park would have an adverse affect on the experiences for non-mechanized recreationalists, including hikers, climbers, horseback riders, skiers, etc. Our organizations represent thousands of Oregonians who participate in these activities, and we are stating in no uncertain terms that a developed, lift-service downhill mountain biking facility at Timberline Lodge will have a negative impact on the experiences of existing recreational users of this historic, unique resources. This information must be disclosed to the public in the PA.

Pg. 142 – Recreation – Developed Recreation. The Forest Service needs to quantify for the public the impact that the development of the bike park would have on the existing facilities at Ski Bowl. The PA admits that certain impacts would occur, but this statement does not provide the public and decision maker with any meaningful information on how the existing bike facilities at Ski Bowl would be impacted.

Pg. 142-143 – Recreation – Development Recreation. The PA concludes that the facilities will be visible from the Timberline Trail and that hikers will be able to hear and see the mountain biking from this historic resource. The PA must clarify that laws, standards and guidelines that apply to the Timberline Trail and determine whether these impacts are allowed.

Pg. 146-149 – Visuals.

The proposed mountain bike park is likely to have direct and indirect effects on the visual and scenic quality of the Timberline Lodge and surrounding area. Timberline Lodge and the surrounding area is a popular destination for day hikers, backpackers, and tourists. The scenic quality of the area is essential to these visitors’ experience, and therefore a careful analysis of how the proposed mountain bike park will affect the scenic quality of the area is essential. Because these effects are likely significant, the Forest

Service should have prepared an environmental impact statement (EIS) rather than an environmental assessment.¹²⁴ The visual section of the PA prepared by the Forest Service is inadequate because it fails to address the direct, indirect, and cumulative effects of the proposed development, and it lacks essential analysis.

A. The Preliminary Assessment analysis for potential impacts on the visual and scenic quality of Timberline and the surrounding area is inadequate.

1. The PA fails to address the potential direct and indirect effects of the proposed mountain bike park.

Any finding of no significant impact (FONSI) must explain why the proposed action “will not have a significant effect on the human environment,”¹²⁵ including both direct effects and indirect effects that are reasonably foreseeable.¹²⁶ The PA’s visuals section lacks any analysis of indirect effects, and does not adequately address direct effects of the proposed development. Rather, the PA simply relies on the Timberline Express Environmental Impact Statement Visuals Analysis, without considering the additional direct and indirect effects of *this* proposed action. For example, construction of the bike park will require clearing of trees, shrubs, and groundcover. This will change the natural appearance in all landscape character types and will inevitably affect the scenic quality of the area.¹²⁷

Complete reliance on the Timberline Express EIS is misplaced because the mountain bike park will introduce activities during the summer and fall months, which was not analyzed in the Timberline Express EIS. When considering only the structural facilities of the developed ski area, the Timberline Express EIS explained that the facilities summer visitors see “would be disruptive of their experience to the extent that their design and placement are out of harmony with natural form, line, color and texture” of the surrounding landscape.¹²⁸ Adding summer activities to the structural facilities will further disrupt visitors’ experiences. In addition, the proposed development will further degrade the surrounding area by clearing trees and vegetation for bike trails in areas previously undisturbed.

The scoping letter states that structures, for example ladder bridges, would be included in the trail network. A draft document by the Forest Service describes 70-90 wooden structures such as bridges, boardwalks, wall rides, tables, ladders, and rollers. Most of these designs are elevated, some quite high, and can be up to 100’ in length. The draft states that the cumulative length of all the features may be as much as 2,400’. These wooden features are very unaesthetic and conflict with the natural, innate beauty of

¹²⁴ 42 U.S.C. § 4332(2)(C).

¹²⁵ 40 C.F.R. § 1508.13.

¹²⁶ *Id.* § 1508.8.

¹²⁷ *See* Timberline Express Draft EIS, Sec. 3.15.3, p. 3-299.

¹²⁸ *Id.* at 3-290.

Mt. Hood and surrounding forest. The large number of these objects, the large scale of mass, and unaesthetic design will contribute to a degraded visual experience. Also, the combined footprint of these objects, plus the ride arounds and aerial landings, were never calculated and added to the total area of disturbed ground.

2. The PA fails to discuss the cumulative impact of the proposed mountain bike park on the scenic quality of the Timberline area.

A FONSI must consider the cumulative impact,¹²⁹ which is the impact on the environment resulting from an incremental impact “when added to other past, present, and reasonably foreseeable future actions” that may “result from individually minor but collectively significant actions taking place over a period of time.”¹³⁰ The PA simply states that “the Proposed Action would not have any visual effects that would be inconsistent with the VQOs” and thus will not cumulatively effect the visual quality of the surrounding area when considered in conjunction with past, present, or reasonably foreseeable projects. This statement lacks consideration of any cumulative impacts that may result from the introduction of summer activities in an area used primarily for winter recreation. Consistency with the VQOs does not signify that the proposed development will “not cumulatively effect” the visual quality of the surrounding area.

It is unlikely the removal of trees in the existing swaths between runs will retain the “gradual transition from undisturbed forest to cleared ski trails” described in the Timberline Express EIS.¹³¹ The proposed development will require clearing trees and vegetation for new trails in an area that has already been disturbed. The proposed action will thus further reduce canopy cover in an area previously disturbed by the Timberline Express development, and in the cumulative will result in a significant effect on the human environment.

3. The PA improperly applies the rationale for amending the VQO Standards and Guidelines of the Timberline SUP area to downhill mountain biking.

The rationale for amending the VQO Standards and Guidelines of the Timberline SUP area relied specifically on aspects of downhill skiing. The amendment revised the section of the Forest Plan that addresses winter recreation and associated summer opportunities.¹³² The standard in A11-017 applies to “[n]ordic ski centers, developed downhill ski areas, and other developed facilities” and the standard in A11-020 specifically applies to “ski lift facilities.”¹³³ The amendment revised the Forest Plan Standards A11-017 and A11-020 (requiring Partial Retention) “to more accurately reflect

¹²⁹ 40 C.F.R. § 1508.8.

¹³⁰ 40 C.F.R. § 1508.7.

¹³¹ See Timberline Express EIS, App. E, p. 1.

¹³² Forest Plan, p. Four-190.

¹³³ *Id.* at Four-193.

the visual characteristics of developed *ski areas*,¹³⁴ because the Forest Plan Standards and Guidelines for downhill skiing were inconsistent with the goals they were designed to achieve.¹³⁵

In contrast to the tension existing between the standard for Partial Retention and the goal of developed downhill ski areas because such ski areas necessarily require ski lift facilities, there is no mention of facilities or development required to achieve the listed goal of mountain bicycling.¹³⁶ By applying the reasoning for Amendment No. 15 directly to downhill mountain biking, the Forest Service is ignoring the basis for that amendment. While Timberline may claim downhill mountain biking is an “associated summer opportunity,” opening a downhill mountain bike park requires additional changes to the ski area and thus there necessarily will create additional visual impacts.

4. Even if Amendment No. 15 applies to downhill mountain biking at Timberline, the PA fails to address how the proposed development will be consistent with the VQO Standard of “Modification.”

The PA visuals section fails to explain how the proposed development will be consistent with the prescribed VQO of “Modification.” For viewpoints 3, 4, and 7, the PA provides a blanket statement that any visible mountain bike trails or activities “would be consistent with the prescribed VQO of Modification.”¹³⁷ The analysis fails to explain how the bike trails or activities will “utilize the natural established form, line, color and texture” of the landscape, as required by the prescribed VQO of Modification.

B. The visuals section lacks essential analysis.

1. The visuals section fails to address the Timberline Lodge Special Emphasis Area or the Comprehensive Plan for the Pacific Crest National Scenic Trail.

The PA states that the visual analysis “will analyze the scenic quality of the area in context of management direction, goals, and objectives of the Forest Plan, Timberline Lodge Special Emphasis Area, and The Comprehensive Plan for the Pacific Crest National Scenic Trail.”¹³⁸ Yet the analysis fails to address the management direction, goals, and objectives of either the Timberline Lodge Special Emphasis Area or the Comprehensive Plan for the Pacific Crest National Scenic Trail, and thus lacks essential analysis. The visuals section should consider how the proposed development will both

¹³⁴ See Timberline Express Record Of Decision (emphasis added).

¹³⁵ See Forest Plan, Four-191 (contemplating ski lodges and chair lifts as “major characteristics” of the desired future conditions).

¹³⁶ *Id.*

¹³⁷ PA, Sec. 3.7 Visuals, p. 149.

¹³⁸ *Id.* at 146.

directly and indirectly affect the scenic quality of the area in the context of the management direction, goals, and objectives of these plans.

The proposed development will likely have direct and indirect effects on the human environment when considered in light of the management direction, goals, and objectives of the Comprehensive Plan for the Pacific Crest National Scenic Trail. The Comprehensive Plan states a preference for locations that “avoid proximity to roads, power lines, commercial and industrial developments, fences, and other features where they may be incompatible with the traveler’s enjoyment of the trail.”¹³⁹ While the trail was purposely located adjacent to Timberline Lodge because the Lodge was “deemed to have potential national significance as related to the trail,”¹⁴⁰ the plan also intended to harmonize the area surrounding the trail with the purpose of those using it.¹⁴¹ The plan explains that where the trail must pass near areas of concentrated recreational use, native vegetative screening to block the view of the trail will be used.¹⁴² Specific location criteria considered when initially placing the trail included requiring that the trail “fit” the land in such a manner that the trail and the natural environment tend to complement each other.”¹⁴³ Because the proposed mountain bike park will further degrade regions adjacent to the Pacific Crest National Scenic Trail, it is unlikely the proposed development is consistent with the goals of the Comprehensive Plan.

2. The visual analysis is incomplete and inaccurate.

The visual analysis ignores mountain bike trails and activities that will likely directly affect the scenic quality of the area by focusing solely on the visibility of the skills park.¹⁴⁴ For example, mountain bike trails and activities associated with the top of Timberline Express and the trails connecting that lift to the park entrance will likely be visible from the rear patio of Timberline Lodge. The PA states that “mountain bike trails or activities would not be visible” from the Timberline Lodge front entrance or rear patio.¹⁴⁵ The visual analysis does not provide any evidence to support this assertion.¹⁴⁶ The PA and visual analysis should address these direct effects on the scenic quality of the Lodge and surrounding area.

The visual analysis does not depict accurate visual representations of the proposed development because the simulation was conducted in winter when snow likely further

¹³⁹ The Comprehensive Plan for the Pacific Crest National Scenic Trail, App. C, p. 2.

¹⁴⁰ The Comprehensive Plan for the Pacific Crest National Scenic Trail, p. 6.

¹⁴¹ The Comprehensive Plan for the Pacific Crest National Scenic Trail, App. C, p. 2 (suggesting the use of “natural vegetation, topography, or planting of local species . . . to screen objectionable features from the view of the trail user.”).

¹⁴² *Id.*

¹⁴³ *Id.* at 4.

¹⁴⁴ See PA, App. F.

¹⁴⁵ PA, Sec. 3.7 Visuals, p. 149.

¹⁴⁶ See PA, App. F.

obstructed any views,¹⁴⁷ even though the PA explains that any proposed activities “would be visible primarily in the early summer to mid fall.”¹⁴⁸ In addition, the simulation was based on the height of a 6’ mountain biker standing on a bike on top of a 3’ feature. This analysis ignores any vertical height a biker attains when jumping off of the terrain features. The analysis should consider views of the mountain bikers at heights greater than 10’ during the summer and fall seasons (without snow), which would more accurately represent the future views of guests visiting Timberline Lodge.

Pg. 150 – Social and Economics. The reliance on data from Whistler is flawed. Whistler is located next to a far larger metropolitan area – Vancouver, British Columbia – and furthermore stands out as one of the premiere ski area destinations in North America. The market for lift-served, downhill mountain biking is therefore likely to be much different from the market for the similar niche activity in Oregon. The Forest Service must conduct a market analysis for Oregon that considers the local and regional demand for these fee-based recreational activities, taking into consideration the numerous other options that currently exist or are being developed, including Ski Bowl, Willamette Pass, Mt. Bachelor, Crystal Mountain and Stevens Pass.

Pg. 153 – Social and Economics. As the Forest Service concedes, downhill, lift-served mountain biking is a niche market. The figures on Oregon’s recreational community as a whole, or the number of bikers, do not provide relevant information for determining the social and economic impact of a lift-served, fee-based, downhill mountain biking park at Timberline Lodge.

Pg. 156-158 – Social and Economic. The PA discusses a “preliminary evaluation of the potential biker visitation to the proposed Timberline Bike Park,” which was prepared by GravityLogic. The Forest Service must demonstrate that it has independently reviewed and approved this information. We again oppose the use of projections of offsite economic activity from Whistler as a basis for the analysis at Timberline Lodge. Furthermore, as discuss previously, the Forest Service must provide the underlying data and methodologies used to estimate the number of visitations, which are suspect without that underlying information.

Pg. 158 – Social and Economic. The PA should assess the economic viability of building out the bike park more slowly over time after the restoration activities have been implemented and monitored to demonstrate that they have, in fact, been effective.

Pg. 158-159 – Social and Economic. The Forest Service must clarify whether and how the requirements of PDC Soil-11 were factored into the economic analysis and how it has estimated the economic impact of requiring closure of bike park operations pursuant to the requirement of this design criteria. The Forest Service must also provide detailed information on how it calculated operating costs, specifying whether and to what extent the PDCs were factored into estimates of costs to RLK.

¹⁴⁷ *Id.*

¹⁴⁸ PA, Sec. 3.7 Visuals, p. 149.

Pg. 162-184 – Aquatic Habitat. Please refer to earlier comments as well the as the comments submitted by Mr. Rhodes.

V. The Forest Service Must Prepare an Environmental Impact Statement to Address the Potentially Significant Impacts of the Proposed Project.

For all “major Federal actions significantly affecting the quality of the human environment,” the Forest Service must prepare an EIS.¹⁴⁹ The proposed downhill mountain bike park will likely have a significant impact on the environment of Mt. Hood, including the historic nature of Timberline Lodge, critical habitat for threatened and imperiled aquatic species, water quality, sensitive high-elevation vegetation, big game including deer and elk, and fragile volcanic soils susceptible to erosion and compaction.

We encourage the Forest Service to revisit and give serious consideration to the scoping comments submitted by Northwest Environmental Defense Center, which discuss the significance criteria as applied to this project. Those comments address each significance criteria in turn, noting that each and every one of them will be implicated by this project. The analysis in the PA only reinforces these points, emphasizing the need for a more thorough EIS before the Forest Service approved the project.

Moreover, we want to emphasize at this point that the potential impacts are “highly controversial.”¹⁵⁰ The controversy relates to a number of different aspects of this project, including, without limitation the following:

- The Forest Service’s failure to provide any input whatsoever on the Master Development Plan for Timberline Lodge, and the agency’s failure to subject that plan to environmental analysis through the NEPA process.
- The related failure to consider the potential cumulative effects of the proposed project on aquatic habitat and salmonids, deer and elk habitat, visual quality, soil quality and other resource values.
- The Forest Service’s failure to adhere to or apply the best available science requirement of the NFMA planning regulations.
- The Forest Service’s decision to use restoration to offset or mitigate otherwise significant adverse impacts to watersheds conditions resulting from sedimentation delivered to stream channels by stream crossings within the Riparian Reserves. As we discussed earlier, this approach to management is prohibited by the Northwest Forest Plan and conflicts with the best available science regarding watershed management.
- The Forest Service’s assumptions that the restoration project would, in fact, fully offset or mitigate the impacts of the bike park construction. The agency’s assumptions and conclusions regarding the efficacy or restoration efforts and the

¹⁴⁹ 42 U.S.C. § 4332(C).

¹⁵⁰ 40 C.F.R. § 1508.27(b)(4).

timing of their benefit is unsupported and conflicts with the best available science.

- The Forest Service's assumption that the PDCs would be fully implemented and would be effective without any discussion of past problems experienced on Mt. Hood and at Timberline Lodge relating to revegetation, erosion and watershed resources.
- The Forest Service's failure to consider any other alternatives to the proposed mountain bike park or to conduct a reasoned market analysis demonstrating that regional demand for these services.

CONCLUSION

Thank you for the opportunity to provide comments on the Preliminary Assessment for the Timberline Ski Area Mountain Bike Trails and Skills Park. Our organizations unanimously recommend that the U.S. Forest Service choose the No Action alternative based on the analysis in the Preliminary Assessment. If the Forest Service insists on moving forward with this project, it must prepare an environmental analysis of the Master Development Plan, re-open the scoping period for the bike park, and then prepare an Environmental Impact Statement to assess the potentially significant impacts of committing the sensitive, high-elevation areas surrounding Timberline Lodge to the permanent damage that will be caused by the project.

(see next page for signatures and addresses)

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