

**Ten Cent Community Wildfire Protection Project  
Final Environmental Impact Statement (FEIS)  
Umatilla and Wallowa-Whitman National Forests  
Objection Statements and Responses  
October 2017**

<b>Objectors</b>	<b>Objection Number</b>
American Forest Resource Council (AFRC)	#17-06-14-0001-218(B)
Oregon Wild (OW)	#17-06-14-0002-218(B)
Wilderness Watch (WW)	#17-06-14-0003-218(B)
Blue Mountains Biodiversity Project (BMBP)	#17-06-14-0004-218(B)

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***Impacts to Forest Vegetation***

**Overview and Objector’s Suggested Remedies:** These objection issues surround the concern over impacts to forest vegetation from the silviculture prescriptions. Suggested remedy is to adopt variable spacing of leave trees (including clumps of leave trees, generous unthinned “skips,” and small heavily thinned “gaps”); where there are lots of small, young trees, prescribe variable density thinning to 60-80 sq ft/acre basal area, retaining the medium and large trees that will become the next generation of old growth; and because larger trees have a higher ratio of basal area to leaf area, retain 100-140+ square ft/acre. In addition, objector suggests preparing an EIS to address the significant impacts and unresolved conflicts raised by the objector.

**Objector Statement #1:** Objector states that “Aggressive Thinning to Even Spacing and Low Basal Area Violates the Eastside Screens” because the Eastside Screens “requires that all logging, including logging in non-LOS stands, be conducted in such a way that restores complex forest conditions.” OW at 11. Objector requests that the FEIS disclose how the project complies with the Eastside Screens. OW at 11.

**Response:** I find that Responsible Officials considered the proposed thinning activities and found that they are consistent with the Eastside Screens.

The Interim Management Direction Establishing Riparian, Ecosystem, and Wildlife Standards for Timber Sales (Eastside Screens), amended the Umatilla and Wallowa-Whitman Forest Plans in 1995. The intent of the Screens “is still to maintain and/or enhance LOS components in stands subject to timber harvest as much as possible” and includes the following standards for timber sales: a) Maintain all remnant late and old seral and/or structural live trees  $\geq 21$ " diameter at breast height (dbh) that currently exist within stands proposed for harvest activities; b) Manipulate vegetative structure that does not meet late and old structural (LOS) conditions, (as described in Table 1 of the Ecosystem Standard), in a manner that moves it towards these conditions as appropriate to meet the historic range of variability (HRV); and c) Maintain open, parklike stand conditions where this condition occurred historically. The Screens go on to state that forests should: “Manipulate vegetation in a manner to encourage the development and maintenance of large diameter, open canopy structure. While understory removal is allowed, some amount of seedlings, saplings, and poles need to be maintained for the development of future stands.”

The response to comments, FEIS Appendix D at 364 states that “The description of alternatives considered in detail are in Chapter 2, Section 2.2 of the DEIS. Treatments across Alternatives 2, 3, and 4 include combinations of variable density thinning, strategically placed skips and gaps, “feathering” of

thinning spacing, basal area thinning that allows for leaving clumps of trees, etc. Existing variability of tree spacing and species will likely create variability in the post-treatment stand (DEIS, page 86).“

During the objection resolution meeting, the District clarified that the roadside units within the Ten Cent project area are to be thinned to a variable density that will resemble skips and gaps. This will be achieved by implementing the following measures: Retaining clumps throughout the units to meet viewshed objectives in A3 management areas; prohibiting commercial treatment within riparian buffers; Retaining all over trees over 21” DBH, unless they are danger trees; and retaining trees within the pipeline area in order to protect pipelines. The Umatilla National Forest determined that because these implementation measures will result in conditions similar to those created by skips and gap, and because eliminating skips and gaps in the roadside units would have little to no impact on wildlife, attempting to create skips and gaps would add unnecessary complexity to the project.

The project does not propose harvest of trees over 21” dbh, documents how the project moves or maintains stands within HRV, and demonstrates how use of variable density thinning ensures that the standards for the Eastside Screens are met. FEIS at 82-86, 89, 94 and 95.

**Objector Statement #2:** Objector states that “Basal Area retention is an important ecological consideration that must be disclosed quantitatively in the NEPA analysis. The NEPA analysis should disclose basal area retention levels that provide assurance that enough trees are being retained to meet ecological needs for live and dead trees now and in the future” and suggests specific retention levels as remedies for this issue, which will “avoid reducing stand density lower than is appropriate to meet the full suite of ecological objectives, including wildlife cover, perpetuating mortality processes that create and sustain valuable habitat features, etc.” OW at 12.

**Response:** I find that the Responsible Officials disclosed basal area retention levels that were developed to meet the purpose and need and demonstrated how stand densities would maintain wildlife cover, tree mortality and other habitat features.

The regulation at 40 CFR 1502.13 states that “The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.” The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

One of the purpose and needs described in the FEIS at 5 is to “(1) to create a series of strategically placed defensible fuel profile zones (defensible zone) in order to modify the existing fuels to reduce potential fire behavior to low intensity and reduce the probability of crown fire and spotting.” The FEIS at 5 states that “The area affected by the proposal includes 8,137 acres of stands identified that currently support flame lengths greater than or equal to four feet and have a high potential for crown fire initiation.” The proposed actions, with the exception of some prescribed burning, are within 1.5 miles of identified values at risk (cities of Granite and Greenhorn, private inholdings/structures, ingress and egress routes) with most of the treatments occurring within 0.25 miles of the values at risk. Thus, the focus of the project is on areas near communities at risk where wider spacing (lower basal areas) reduces potential flame lengths and fuel loads. FEIS at 3 and 4.

Basal areas were fully disclosed in the FEIS and were developed to meet the need for action stated above. Specific basal area retention levels were noted for Prescription B and vary by fire type and vegetation group. FEIS at 16. For Prescription A, spacing between trees was described in order to meet

the need of roadside treatments. For all prescriptions, the FEIS described the strategic placement of skips and gaps, which would both increase variability and address the overall goal of breaking up continuous surface and ladder fuels. FEIS at 16-19 and 350. However, there would be no skips and gaps in roadside units (see response to Objection Statement #8: Final Remedies/Resolution for Impacts to Forest Vegetation). Higher basal area retentions (between 70 and 90 square feet) were prescribed for connective corridors in order to comply with the Eastside Screens. FEIS at 19.

The entire proposal incorporates only approximately 44% of the total analysis area for the Umatilla National Forest and 35% of the Wallowa-Whitman National Forest and leaves a large area untreated. In total, about 13,310 acres would be thinned within the entire 94,312 acre planning area (about 14%) and is primarily focused around values at risk, including the wildland urban interface (WUI). Given that 86% of the planning area would not be thinned, I find that mortality and ecological processes would continue to occur across the vast majority of the planning area.

**Objector Statement #3:** Objector is “concerned that the agencies’ stocking guides were created and intended to be used as a tool to avoid mortality which is clearly inconsistent with ecosystem management.” OW at 13.

**Response:** I find that the Responsible Officials provided adequate rationale for the proposed activities and analyzed the effects of the proposed thinning and prescribed fire.

The regulation at 40 CFR 1502.13 states that “The statement shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.” The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

I do not find where avoiding mortality is part of the purpose and need. Instead, I do find that the rationale behind the prescriptions was documented in the FEIS at 15-19. The prescriptions were designed primarily to: provide a safer working environment for firefighters and improve the probability of success in protecting identified values at risk (Prescription A); reduce basal area to reduce surface and ladder fuels (Prescription B); reduce fuels in stands identified as hazardous to reduce the potential loss to property and natural resources from fire in trees less than 7 inches in diameter (Prescription C); and to reduce fuels in stands identified as hazardous to reduce the potential loss to property and natural resources from fire in trees less than 7 inches in diameter, concentrating on downed fuels and ladder fuels that may carry fire into the crowns of these units (Prescription D). In addition, prescribed burning is likely to cause mortality across the landscape. FEIS at 19 and 104.

As stated in the response to Objection Statement #2, the proposed activities covers only part of the area within the larger analysis area, and leaves a large area untreated by thinning where natural mortality will continue to occur, in addition to the mortality that would occur with implementation of prescribed fire.

**Objector Statement #4:** Objector urges the agency “not to manage for tree vigor and minimum stocking levels because it will not provide enough green trees for recruitment of snags through time” and reiterates that the proposed basal areas are too low, but might be OK in small patches, but the average basal area must be much higher as suggested in their remedies. OW at 13.

**Response:** I find that Responsible Officials considered the proposed thinning activities and that they provided for future snag and downed wood needs.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

The FEIS and Terrestrial Wildlife Report and Biological Evaluation described the current condition and impacts of the proposed project activities on snags and downed wood habitat and the species dependent upon this habitat. FEIS at 90 through 108; Objection Record, Terrestrial Wildlife Report and Biological Evaluation at 21 through 35. The analysis utilized “DecAID”, a synthesis of data and research results pertaining to forests in Oregon and Washington to assess snag and down wood needs.

The Objection Record, Silviculture Report at 26 stated that “Typical stands in the Ten Cent project would have small seedling/sapling-size trees underneath these overstory trees. This would allow for some of the recruitment through time.” The FEIS stated that “Where burning does occur, it is expected to create snags through immediate and delayed mortality, partially compensating for downed wood that is charred or consumed.” FEIS at 107. Snag replacement trees are specifically addressed in the FEIS at 103-105. The FEIS at 104 notes that “all treated stands would meet or exceed objectives for green tree replacements (USDA 1996) following treatment. Commercially thinned stands would provide densities of green trees that would meet these objectives Skips within treatment units would provide for high levels of green tree replacements.”

**Objector Statement #5:** Objector states that there is a weak relationship between stand density and forest health or resilience, and that the “relationship between stand density and mortality may be intuitively appealing but is not well-supported by the evidence.” OW at 13.

**Response:** I find that Responsible Officials adequately considered the proposed activities and that the FEIS adequately addressed stand density and provided for future mortality.

See response to Objector Statement #3, #4 and #6.

**Objector Statement #6:** Objector states that the FEIS did not consider the issue of retaining greater genetic variation within stands that goes along with retaining more basal area and as such, provides natural mortality that retains genetic traits that are closely associate with fitness and survival in this ecosystem. OW at 15. Objector goes on to state that “Logging is a novel cause of mortality that does not favor the fittest individuals. The agency must carefully consider the consequences of logging that decouples mortality from fitness, survival and resilience” and believes that nature does a better job than foresters picking trees fit for survival in a stressful world, concluding that natural mortality leads to better resilience while logging leads to reduced forest resilience. OW at 16-17.

**Response:** I find that the Responsible Officials considered the proposed thinning activities and that the prescriptions and untreated areas provide for genetic variation.

The regulation at 36 CFR 218.8(d)(6) requires that objection issues must be based on previously submitted comments. I cannot find in Oregon Wild’s comment letters where genetic variation was previously raised. As such, I do not have to address this issue.

Even though this is not an eligible objection issue, I do note, however, that all trees over 21 inches would be retained, which maintains the current species composition. FEIS at 17. The FEIS at 16 states that in some areas, pruning would be used to remove ladder fuels, rather than thinning. These are among the actions that would allow for retention of genetic variation.

**Objector Statement #7:** Objector states that the project should focus on reducing surface and ladder fuels, versus canopy fuels and that the FEIS failed to take a hard look at the significant trade-offs associated with aggressive thinning that can make fuels hazard worse instead of better. Objector concludes that aggressive thinning to justify the perceived risk of canopy fires is often over-estimated and that the FEIS should address the responsible opposing viewpoints on retaining more canopy to retain cooler temperature and moisture. OW at 17-18.

**Response:** I find that the Responsible Officials considered the proposed thinning and fuels activities and their effect on surface and ladder fuels reductions.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

The FEIS at 14-20 described how thinning from below based on individual stand conditions, locations and forest type would reduce both surface and ladder fuels. The residual post-activity basal area varies from stand to stand, depending on forest type and post-thinning fuels reduction activities. FEIS at 18 and 24. Selected silvicultural treatments were guided by the LRMPs for both the Umatilla and Wallowa-Whitman National Forests. Objection Record, Silviculture Report at 27. Small diameter thinning and pruning are proposed in many areas to help reduce the surface and ladder fuels. FEIS at 16; Objection Record, Silviculture Report at 19, 21 and 22.

The response to comments, FEIS at 348, also addressed this issue, stating that “Actions proposed in each alternative will address both surface and ladder fuels (DEIS, Section 2.2). Small diameter thinning treatments would include fuels treatments designed to address surface fuels and ladder fuels (DEIS, page 17). A combination of hand thinning, hand piling, machine thinning (mastication), machine piling, and hand or machine removal will help address these fuels concerns. Please refer to pages 23-25 of the Fire and Fuels Report on the project website for more information on canopy fuels and their contribution to crown fire susceptibility (or DEIS, page 62). Canopy fuels, as well as, ladder and surface fuels were all used to measure the effects of proposed alternatives and their responsiveness to the project’s purpose and need (DEIS, page 67-71; page 4) analyzed.”

**Objector Statement #8:** Objector states that the agency must also recognize that most large fires are climate driven, not fuels driven, stating that active crown fire is a rare event that should not drive forest management decisions, citing numerous papers and articles on approaches to fuels management, particularly around the wildland urban interface, where loss of homes is primarily influenced by the condition of the “Home Ignition Zone.” OW at 18-24.

**Response:** I find that the Responsible Officials adequately considered the range of fire occurrence and severity.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

The FEIS and Objection Record both note that the project focuses on reducing the potential for active crown fires because of their resistance to control. The fuels specialist noted that while large, stand replacing fires are rare events, they can be quite costly and create an unsafe environment for both the public and for firefighters. FEIS at 2-4 and 66; Objection Record, Fuels Report at 4, 11 and 14.

As stated in the FEIS, the purpose and need for the project is: “To create a series of strategically placed defensible fuel profile zones (defensible zones) in order to modify the existing fuels to reduce potential fire behavior to low intensity, To reduce the probability of crown fire and spotting, To enhance landscape resilience to future wildfires within the project area, and to maintain and enhance local communities and economies by protecting and enhancing the public lands that provide recreational opportunities, commodity outputs, and ecosystem services.” FEIS at 4. In the Fuels Report, crown fuel characteristics and spatial continuity and density of tree canopies are discussed in their relation to fire spread, and the fuels specialist found that a large portion of the project area rates high or extreme in existing condition hazard rating. Objection Record, Fuels Report at 18 and 20.

Defensible Fuel Profile Zones (DFPZ’s) would be developed along major travel routes and along private land boundaries out to 1.5 miles away, depending on stand conditions. These DFPZs would allow ground suppression forces (engines, crews and equipment) to access wildfires. Objection Record, Fuels Report at 22. This would also allow for safe ingress/egress to and from fire for firefighters, as well as egress for forest visitors and home owners escaping the fire area. While loss of homes is primarily influenced by the condition of the “Home Ignition Zone”, thinning of dense canopies adjacent to private lands and main roads allows retardant to be more effective by getting to surface fuels without being caught in the canopy. Objection Record, Fuels Report at 23.

The response to comments, FEIS at 348, also addressed this issue, stating that “Actions proposed in each alternative will address both surface and ladder fuels (DEIS, Section 2.2). Small diameter thinning treatments would include fuels treatments designed to address surface fuels and ladder fuels (DEIS, page 17). A combination of hand thinning, hand piling, machine thinning (mastication), machine piling, and hand or machine removal will help address these fuels concerns. Please refer to pages 23-25 of the Fire and Fuels Report on the project website for more information on canopy fuels and their contribution to crown fire susceptibility (or DEIS, page 62). Canopy fuels, as well as, ladder and surface fuels were all used to measure the effects of proposed alternatives and their responsiveness to the project’s purpose and need (DEIS, page 67-71; page 4) analyzed.”

**Final Remedies/Resolution for Impacts to Forest Vegetation:** As stated in response to Objector Statement #1, during the resolution meeting, the Responsible Officials clarified that there would be no skips and gaps left in the roadside units (Prescription A). Because roadside habitat is marginal at best, the removal of skips on these units would have no mid- or long-term effects on wildlife species. Additionally, creating skips and gaps, as called for in other units, would not create suitable habitat here. As noted above, the project will comply with the Eastside Screens, since the project does not propose harvest of trees over 21” dbh, documents how the project moves or maintains stands within HRV, and demonstrates how use of variable density thinning ensures that the standards for the Eastside Screens are met.

***Unroaded Areas, Inventoried Roadless Areas (IRAs) and Potential Wilderness Areas (PWAs)***

**Overview and Objector’s Suggested Remedies:** This objection issue surrounds the concern that the FEIS failed to fully account for the impacts on unroaded areas and the concern that the use of prescribed fire

in IRAs and PWAs will degrade their natural and character. Suggested remedies include issuing a clear decision that avoids logging and road building in unroaded areas, IRAs and PWAs, and preparing an FEIS that addresses the unresolved conflicts and significant impacts raised by the objectors. Another objector is concerned with the analysis of undeveloped areas should only occur at the Forest Planning level.

**Objector Statement #9:** Objector states that the “FEIS says there would be no logging and no roads in unroaded areas. However, this is not accurate because there would be extensive logging in de facto unroaded areas adjacent to roads. The FS can only say there would be no impacts to unroaded areas by arbitrarily and capriciously excluding areas within 300 feet of roads from the unroaded area, in spite of clear policy that unroaded inventories be “inclusive” not exclusive.” OW at 3-11.

**Response:** I find that the FEIS adequately documented the rationale for excluding areas within 300 feet of roads from the unroaded area analysis. I also find that the FEIS concluded that there would be no harvest or roads in Potential Wilderness Areas (PWAs), but concluded that there would be impacts from the proposed treatments to unroaded areas.

The FEIS makes a clear distinction between Potential Wilderness Areas (FEIS at 217) and undeveloped lands (FEIS at 219 and 220). As described in the FEIS, the PWA inventory was conducted as part of Forest Plan revision and is consistent with agency regulations and policy regarding plan revision under the 1982 Planning Rule and the 2007 Forest Service Handbook that implemented the 1982 planning rule. FEIS at 217. That inventory occurred during Forest Plan revision and is described in the 2014 Draft EIS for the Blue Mountain Forest Plans. The Ten Cent analysis used the PWA inventory from Forest Plan revision in order to maintain consistency with the draft Forest Plan.

In contrast, undeveloped lands were considered and described for this project based on public concerns over impacts to those areas and the FEIS at 220 clearly documents that there are no forest-wide or management area standards specific to undeveloped lands in either Forest Plan.

The FEIS described the rationale for considering lands 300 feet on either side of the road as developed for the undeveloped lands analysis, and is found in the FEIS at 220 and 394, which states that “Selection of the 300 feet as the edge of development is based on Forest Plan standards that allow vehicles to be driven up to 300 feet off roads to collect firewood, dispersed camp, and other activities. Associated user-created, unauthorized recreation routes and trails are also present. Also, roadside hazard trees are managed so as to remove trees that are within at least a tree height of the road, and even farther if they are on a slope (mature trees on average are 100 to 150 feet tall).”

The FEIS at 220 clearly documents the methodology used for undeveloped lands, stating that “The identification of undeveloped lands was conducted through a sequence of GIS and database analysis, field verification, and the application of professional judgement.” The FEIS defines the results of this analysis with the following statement: “Lands 300 feet on either side of the centerline of all maintenance level 1, 2, 3, 4, and 5 Forest Service roads and open County Roads are considered developed due to evidence of stumps from firewood cutting and hazard tree removal, dispersed campsites, and other activities allowed under the current Forest Plan.” FEIS at 220.

Appendix F of the FEIS further elaborates on how the analysis on undeveloped areas was conducted and fully outlines the methodologies and maps that were used to clearly document where impacts may occur. The selection of 300 feet as the edge of development is again described in Appendix F and shows

how this distance was used based on past management decisions and current Forest Plan standards, as well as past human use. FEIS at 394 and 395.

The FEIS goes on to clearly articulate the impacts to undeveloped lands and provides a comparison table by alternative that breaks out the acreage of each proposed activity that would occur in undeveloped lands. FEIS at 223-225. The FEIS makes particular note of impacts to the larger undeveloped polygons that would be affected by this project. FEIS at 223.

**Objector Statement #10:** Objector states that the agency “is arbitrary and capricious in setting a policy that excludes unroaded areas from the unroaded inventory in favor of “existing access travel management plans and allow for increased flexibility in maintenance of the existing transportation system” and that the agency needs to explain the rationale as to “why it is more important to maintain flexibility for its road system out to 300 feet beyond the road, at the expense of the important (and under-represented) public values that are provided by unroaded areas, e.g., clean water, wildlife habitat, carbon storage, recreation, scenic values, etc.” Objector states that the agency could have set policy protecting roadless areas instead of transportation or established a buffer of 50-100 feet along roads and that the agency failed to “prepare NEPA analysis explaining or justifying the policy choice to emphasize roads over roadless areas.” OW at 3.

**Response:** See response to Objector Statement #9.

**Objector Statement #11:** Objector states that the 300-foot buffer is arbitrary and capricious because there was no analysis done to show which acres had stumps present and which areas did not, and that acres were excluded from the unroaded inventory without evidence or site-specific analysis. Objector states that impacts to these areas were underestimated, the impacts analysis was flawed and the inventory methods were faulty. OW at 3 and 4.

**Response:** See response to Objector Statement #9. Appendix F of the FEIS clearly explained the methodology used to determine the areas that would be considered in the undeveloped lands analysis. Appendix F clearly stated that “Stumps are not present along every mile of forest road; for example roads adjacent to non-forested land such as, but not limited to, meadow, step-shrub, talus, or a lake.” FEIS at 394.

**Objector Statement #12:** Objector states that the FEIS failed to disclose the activities planned in ecologically significant unroaded areas greater than 1,000 acres and that the “disproportionate negative impacts” of logging these areas that provide “disproportionately to public values like clean water, habitat, carbon storage, quality of life, recreation, etc.” OW at 4.

**Response:** I find that the FEIS adequately disclosed the activities planned in the undeveloped areas.

The objector states that “large unroaded areas are important simply due to the fact that they better represent the historic condition that species evolved with but they are now rare on the landscape due to human activities that have degraded and fragmented the majority of the landscape.” The FEIS at 220 specifically addresses unroaded areas and what had historically been disturbed, which was used as criteria in determining context of impacts. As described in the response to Objector Statement #9, the FEIS made particular note of impacts to the larger undeveloped polygons that would be affected by this project. FEIS at 223. In addition, as documented in Appendix F, only polygons 357 and 506 are larger than 1,000 acres and the proposed mechanical treatments would occur along the boundary. FEIS at 396.

In polygon 357 (1,140 acres) there are 28 acres of mechanical treatment proposed (2.5% of the polygon) and in polygon 506 (1,452 acres) there are 2.5 acres of mechanical treatment proposed (<1% of the polygon). Impacts to these polygons were discussed in the FEIS at 223-225, "Harvest treatments within larger undeveloped lands polygons mostly occur along the edges and would leave the majority of the polygon intact..."

**Objector Statement #13:** Objector states that the Ten Cent draft ROD violates Forest Service policy that the inventory of Potential Wilderness Areas be "inclusive." OW at 8.

**Response:** I find that the draft ROD does not violate Forest Service policy regarding Potential Wilderness Areas.

As stated previously, both forests are currently undergoing Forest Plan revision and identified Potential Wilderness Areas in compliance with the 1982 planning rule and the 1909.12 Forest Service Handbook (FSH) for Land Management Planning (2007). The 2007 version of the FSH 1909.12, Section 70 directed that "The application of the inventory criteria should rely on local knowledge and judgment regarding unique, site-specific conditions of each area being considered for placement on the inventory of potential wilderness. When delineating areas for the potential wilderness inventory; locate boundaries at prominent natural or semi-permanent human-made features to facilitate easy on-the-ground identification." Using this direction, the Forest Plan Revision Interdisciplinary Team (IDT) assessed areas that may qualify for placement on the potential wilderness inventory and created a Geographic Information Systems (GIS) layer, which was used for this project; see the record for the Blue Mountain Forest Plan Revision for details. FEIS at 218. That inventory is not revisited during site-specific project planning.

**Objector Statement #14:** Objector states that "The Forest Service should follow its internal guidance (effective 1/30/2015) for "broad and inclusive" identification of potential wilderness, and public involvement in that process." OW at 8. Objector believes that the agency "must avoid using the contrary policy of excluding 300 foot buffers along roads even when those areas otherwise qualify as potential wilderness" and that the "300-foot buffers often used by Region 6 to determine the boundaries of "potential wilderness areas" are exceedingly large and unsupported by logic and evidence." OW at 9. Objector reminds that forest that "Congress has on many occasions established wilderness boundaries much closer than 300 feet from roads in many instances" and that the agency "should not prejudge wilderness potential by excluding from its NEPA analysis areas that Congress might later decide to include in wilderness." OW at 9.

**Response:** I find that the Districts complied with agency policy and regulation regarding the inventory of Potential Wilderness Areas.

See response to Objector Statement #13. The internal guidance noted by the objector applies to the 2012 planning rule and the 2015 version of the Forest Service Handbook, which describes how each Forest undergoing Forest Plan Revision will inventory areas that may be suitable for inclusion in the National Wilderness Preservation System. The 2015 version of the Forest Service Handbook does not apply to Forests revising their plans under the 1982 planning rule, which is the rule being used by the Umatilla, Wallowa-Whitman, and Malheur National Forests. As such, the agency appropriately used the 2007 version of the Forest Service Handbook to inventory Potential Wilderness Areas and applied that inventory to this project.

The PWA analysis conducted by the Forest Service during plan revision serves as a recommendation; objector is correct in that Congress may decide to designate any area as Wilderness, including areas that have developments.

**Objector Statement #15:** Objector states that while habitat adjacent to roads may be modified by edge effects, it's still roadless and movement by wildlife isn't encumbered, hydrology generally is functioning and the "imprint of man is generally unnoticeable" and that the agency never admits adverse effects 300-feet on either side of roads when constructing them. OW at 10. Objector states that the 2007 FS Handbook also recommends "locat[ing] boundaries at prominent natural or semi-permanent human-made features to facilitate easy on-the-ground identification." A road is a much more clearly identifiable boundary than an arbitrary line 300 feet away from the road." OW at 10. Lastly, objector states that the agency relies on the fact that firewood cutting is allowed within 300 feet of roads, but that this alone doesn't justify "eliminating huge swaths of otherwise roadless forests from the PWA analysis" because many roads are closed, not used for firewood access, are too steep or that few stumps are visible and that this shouldn't render the area ineligible for wilderness, concluding that the agency must disclose how much logging is going to occur in these areas. OW at 10-11.

**Response:** I find that the District appropriately followed agency direction and used the PWA inventory from Forest Plan revision for this project.

The PWA analysis was completed as part of Forest Plan revision and is not revisited during site-specific project planning. For the purposes of analyzing impacts to undeveloped lands, the Districts explained the methodologies used in Appendix F of the Ten Cent FEIS and clearly documented why they considered lands within 300 feet of either side of the centerline of roads were considered "developed" due to the evidence of stumps, dispersed campsites and other activities allowed under the current Forest Plans. FEIS at 220, 394 and 395.

**Objector Statement #16:** Objector is concerned that the use of prescribed fire in these areas may degrade their natural and scenic character, and cause them to be less eligible for Wilderness designation. BMBP at 21.

**Response:** I find that the use of prescribed fire in Inventoried Roadless Areas, Potential Wilderness Areas and undeveloped lands would not adversely impact the social and ecological characteristics that may make them suitable for inclusion in the National Wilderness Preservation System.

The 2007 version of the FSH 1909.12, Section 70 directs the agency to consider potential wilderness during Land Management planning; this occurs during plan revision and has been an ongoing analysis for the revision of the Blue Mountain Forest Plan. Substantially altering a potential wilderness area (PWA) requires the preparation of an EIS (3 CFR 220.5(a)); as such the Forest considered the presence and potential impacts to potential wilderness areas in order to determine if the proposed project would substantially alter a PWA.

In Inventoried Roadless Areas, prescribed fire would "begin to restore naturalness in both fuel loads and vegetation type density." FEIS at 216. In Potential Wilderness Areas, effects of prescribed fire "would appear similar enough to natural fire that management would not be obvious to the common observer". FEIS at 219. Use and effects of prescribed fire would not negatively affect the ability of these areas to meet the Potential Wilderness Area criteria and "would not affect any future wilderness decision associated with a forest plan revision." FEIS at 219.

**Objector Statement #17:** Objector is concerned that the analysis on undeveloped areas should not be occurring in this FEIS only at the Forest Plan Revision level. AFRC at 3.

**Response:** I find that the analysis of the undeveloped areas was appropriately conducted and that PWAs were inventoried during Forest Plan revision.

The analysis of undeveloped lands was conducted because “the public has expressed concerns regarding effects to lands that have not yet been developed regardless of whether they are officially recognized as a Wilderness, Inventoried Roadless Area, or Potential Wilderness Area. As a result, effects to undeveloped lands are considered and described in this section.” FEIS at 219-220. As stated previously, PWAs were inventoried during Forest Plan revision, in accordance with applicable regulation.

**Objector Statement #18:** Objector is concerned that the FEIS refers to “areas identified in the DEIS as Lands with Wilderness Characteristics that do not occur within (overlap with) a PWA” and “considers these acres of land within the undeveloped lands analysis.” Such areas should not be analyzed for “undeveloped” characteristics apart from their inclusion in a PWA. The analysis violates NEPA and should be deleted from the FEIS. AFRC at 3.

**Response:** I find that the FEIS does not violate NEPA in analyzing the undeveloped areas.

The FEIS at 217 noted that the Districts complied with agency policy regarding inventory of PWAs and included the analysis of undeveloped areas in response to public comments and requests for such an analysis. FEIS at 219-220. See also the response to Objector Statement #17.

**Final Remedies/Resolution for Unroaded Areas/IRAs/PWAs:** The Districts fully complied with agency regulation and policy regarding the inventory of PWAs and the analysis to undeveloped lands. The FEIS also fully disclosed potential impacts to all of these lands, including IRAs. No remedy or resolution is needed.

### ***Wilderness Act Violations***

**Overview and Objector’s Suggested Remedies:** These objection issues surround several objector’s viewpoints that the project will violate the Wilderness Act. Suggested remedies include: withdrawing the FEIS or excluding prescribed fire and associated activities inside the Wilderness.

**Objector Statement #19:** Objector states that Section 4(d) (1) of the Wilderness Act does not address the issue of management-ignited fire and that the agency misreads the act and conflicts with the Forest Service Manual which recognizes there is no broad discretion to light fires in the Wilderness. WW at 2-3.

**Response:** I find that the decision is consistent with the Wilderness Act and Forest Service policy for wilderness management. However, management in wilderness has been dropped from the decision.

Section 4(d)(1) of the Wilderness Act allows for measures to be taken “as may be necessary in the control of fire ... subject to such conditions as the Secretary deems desirable.” Manager-ignited fire is a standard tool in control of fire. FEIS at 309. Forest Service policy for wilderness management permits use of manager-ignited prescribed fire in wilderness to reduce unnatural buildups of fuels if it is

necessary to meet at least one of two wilderness fire management objectives, and when certain specified conditions are met. FSM 2324.22.

Forest service policy identifies the objectives of fire management in wilderness as to: “(1) Permit lightning caused fires to play, as nearly as possible, their natural ecological role within wilderness. (2) Reduce, to an acceptable level, the risks and consequences of wildfire within wilderness or escaping from wilderness.” FSM 2324.21. The second objective has been incorporated in the overall purpose of the project, which would reduce to an acceptable level the risks and consequences for firefighter and public safety as well as private residences and communities adjacent to the wilderness boundary. Draft ROD at 3, 14.

The first two conditions that must be met are that “use of prescribed fire or other fuel treatment measures outside of wilderness is not sufficient to achieve fire management objectives within wilderness”. FSM 2324.22. A Minimum Requirements Decision Guide (MRDG) was prepared that determined that use of prescribed fire or other fuel treatment measures outside wilderness would not be sufficient. FEIS at 404. The second condition that must be met is that “an interdisciplinary team of resource specialists has evaluated and recommended the proposed use of prescribed fire”. FSM 2324.22. The proposal was developed by a team of interdisciplinary specialists. FEIS at 3. The third condition that must be met is that “the interested public has been involved appropriately in the decision”. FSM 2324.22. The public was provided opportunity to comment on the proposed action and draft EIS. Draft ROD at 8-9. The final condition that must be met is that “Lightning-caused fires cannot be allowed to burn because they will pose serious threats to life and/or property within wilderness or to life, property, or natural resources outside of wilderness”. FSM 2324.22. The MRDG documents the current situation in which natural ignitions in wilderness are suppressed to protect life, property, or natural resources outside of wilderness, including adjacent private residences and communities. FEIS at 403. The final condition to be met is that there must be objectives, standards, and guidelines for the use of prescribed fire specific to the wilderness area in a forest plan, interim wilderness management plan, or fire management area plan. FSM 2324.22. The North Fork John Day Wilderness Action Plan specifies that vegetative changes resulting from prescribed fire would not be considered unacceptable changes in forest cover or visual/scenic quality. LRMP at B-2, FEIS at 215.

Finally, policy specifies that manager-ignited fire should not be used where lightning-caused fire can achieve wilderness fire management objectives. FSM 2324.22. The history of fire suppression in the North Fork John Day Wilderness and resulting fuel loading have led to the current situation in which lightning-caused fires are not likely to achieve the second wilderness fire management objective (“Reduce, to an acceptable level, the risks and consequences of wildfire within wilderness or escaping from wilderness.” FSM 2324.21). FEIS at 403. Currently, these risks and consequences within wilderness include the likelihood that “when a fire does occur, it will be of high severity consuming most vegetation and soil cover” and “could potentially remove cover for big game, produce an influx of sediment into anadromous fish spawning habitat, and increase water temperatures due to loss of shade” as well as limit opportunities for primitive recreation. FEIS at 215, 403, 406 and 436.

During the objection review period, the Responsible Officials decided that the final Record of Decision will not include the approximately 9,557 acres of landscape prescribed fire in the North Fork John Day Wilderness analyzed by the FEIS. The Responsible Officials believe that prescribed fire within the wilderness is supported by law, regulation, and policy including the Minimum Requirements Decision Guide as required by the Wilderness Act (located in project record). However, they feel the majority of the purpose and need can still be met for this project with mechanical and prescribed burning outside of

Wilderness. In addition, once areas outside the wilderness are treated, agency administrators may select to manage natural ignitions differently (e.g. confine and contain strategy) inside the North Fork John Day Wilderness to further meet the project purpose and need and improving the naturalness component of wilderness character. Dropping the Wilderness treatment fully resolves one of the four objections and partially resolves another. The objectors' concerns, final EIS, Minimum Requirements Decision Guide, and final Wilderness, Inventoried Roadless Areas, Potential Wilderness Areas, and Undeveloped Lands Report were all reviewed and considered in making their final decision.

**Objector Statement #20:** Objector states that "The Forest Service's ongoing attempts to resist natural processes and change through active manipulation of the wilderness is at odds with the Wilderness Act and the Forest Service's own management guidance." Further the objector states that "The Forest Service manual directs the Forest Service to FSM 2320.2 "[m]aintain wilderness in such a manner that ecosystems are unaffected by human manipulation and influences so that plants and animals develop and respond to natural forces."" WW at 3. Objector suggests that instead of manipulating natural processes that they focus on practices that will reduce structural flammability on private land, particularly within 40 meters of defensible space around homes. WW at 3. 4 and 10. Objector BMBP states that the draft decision does not comply with either the spirit or intent of the Wilderness Act or consider how the project will impact wilderness or wilderness values. BMBP at 24.

**Response:** I find that the decision is consistent with the Wilderness Act and Forest Service policy for wilderness management, and that effects to wilderness were adequately analyzed and documented.

See response to Objector Statement #19; prescribed burning in the Wilderness will not be included in the final decision.

**Objector Statement #21:** Objector states that trammeling wilderness is not consistent with the best available science. WW at 4. Objector states that "Justifications for this project are based on faulty and scientifically controversial theories regarding: historic fire regime and stand densities, the effectiveness of fuels reduction to lessen future fire severity, beetle-killed stands and fire risk, threats to Wilderness values due to high-severity fires, threats to firefighter safety and resources outside of the wilderness." WW at 5. Objector goes on to state that "Wildernesses are not appropriate places for a manipulative management experiment. The experimental extensive human intervention and interference with natural processes in Wilderness areas as proposed in this project are suffused with faulty rationales, scientific controversy, and uncertainty, and are not science-based. In consideration of these problems, this project does not comply with the Wilderness Act." WW at 5.

**Response:** I find that the decision is consistent with the Wilderness Act and that professional and scientific integrity was used in discussions and analyses in the EIS.

See response to Objector Statement #19; prescribed burning in the Wilderness will not be included in the final decision.

**Objector Statement #22:** Objector states that adverse impacts to wildlife and habitat due to prescribed fire have not been adequately addressed in the FEIS. WW at 5.

**Response:** I find that the potential adverse impacts to wildlife habitat and species due to prescribed fire were adequately addressed in the FEIS.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

The FEIS described the current condition and potential adverse impacts of prescribed burning to old growth forest habitat, late and old structural habitat, snag and downed wood habitat, and habitat connectivity. FEIS at 90 to 108. The FEIS also described the current habitat, population status, and potential adverse impacts of prescribed burning to wildlife species, including Management Indicator Species such as Rocky Mountain elk (FEIS at 110-117), pileated woodpecker (FEIS at 120-123), American marten (FEIS at 123-126), primary cavity excavators (FEIS at 117-120), American three-toed woodpecker (FEIS at 127-129), and Northern goshawk (FEIS 108 to 132), and threatened, endangered, proposed, candidate, and sensitive species (FEIS at 132 to 170).

**Objector Statement #23:** Objector states that “Fire suppression is unlikely to have significantly affected the mixed-conifer forests that were very likely dominated by large mixed-severity wildfire (including high severity patches) within the project area. In addition, the remoteness of the area, lack of human habitation, and beneficial effects of allowing wildfire to occur make the project area an ideal location for allowing lightning strikes and wildfires to burn without intervention, and in their current state, as directed by the USFS’s mandate.” WW at 5.

**Response:** I find that the Responsible Officials adequately considered fire occurrence and severity in considering other than natural ignitions within the wilderness.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

The FEIS at 309 responded to this issue, stating “Section 4d1 neither allows nor denies use of manager-ignited prescribed fire, which is a standard tool in controlling all types of fire. It states “such measure may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the Secretary deems desirable.” Further, this project does meet Forest Service Policy at FSM 2324.22 parts 6, 7, and 8 in that it will meet both of the wilderness fire management objectives in FSM 2324.21 by reducing, to an acceptable level, the risks and consequences of wildfire within wilderness or escaping from wilderness and setting this portion of the wilderness up for permitting lightning-caused fires to play, as nearly as possible, their natural ecological role in the future. Currently, lightning-caused fires cannot be allowed to burn within the wilderness because they pose serious threats to life, property, or natural resources to the east of the wilderness. The MRDG determined that use of prescribed fire or other fuel treatment measures outside the wilderness would not achieve fire management objectives within the wilderness.”

The FEIS at 309 goes on to state that “In this particular case, fire suppression within the North Fork John Day Wilderness has had a long-term trammeling effect by preventing natural fire from reducing fuel loads such that loads are now outside prescribed natural fire parameters. These fuel loads and the proximity of this portion of the Wilderness to adjacent communities precludes anything but full suppression of current natural fires. The proposed ignition of fire within the wilderness would be a short-term trammeling in that humans select the timing and location of this particular ignition in order to restore our ability to allow natural-caused fires to play out their role on the landscape and reduce the long-term trammeling that is currently occurring. The goal of this activity is to restore our ability to allow natural ecological processes to operate freely in the future (DEIS, Section 3.14).”

In addition to the response to scoping, the Objection Record, Fire Fuels Report at 13 explained past known fire history, and suppression of past fires. Many fires in the surrounding area that have escaped initial attack suppression efforts have grown very large. Objection Record, Fire Fuels Report at 14.

See response to Objector Statement #19; prescribed burning in the Wilderness will not be included in the final decision.

**Objector Statement #24:** Objector lists what they believe are the flawed assumption used to justify artificial manipulation of the wilderness, which include: failure to recognize that fuels treatments do not affect the size or intensity of a fire, while climate and weather do; failure to recognize that the proposal may cause unintended adverse impacts by creating burn patterns outside the historic norm; failure to recognize that current policies are what puts firefighters at risk and that this project is not needed to change current policies; and failure to recognize the scientific realities of fire regimes, behavior, fire risk and forest density, all of which render the project invalid. WW at 5.

**Response:** See responses to Objector Statements #23, #24 and #36-#38.

**Objector Statement #25:** Objector states that “Forest Service policy under the Wilderness Act directs that lightning-caused fires should be permitted to play, as nearly as possible, their natural ecological role within wilderness. None of the alternatives proposed in this project (the action or no action alternatives) follow these directives. Failure to follow these directives is not based in scientific fact or rationales, as demonstrated throughout these comments. The minimum criteria for justification to manage Wilderness areas with prescribed fire have not been met by this project. Additionally, the consequences of high intensity fires within the wilderness are ecologically beneficial, risks are not increasing relative to historic norms, and chances of wildfire escaping the wilderness cannot be effectively influenced by fuels reduction projects. Fuels reduction efforts, including prescribed fire, run counter to Wilderness Act directives.” WW at 5.

**Response:** I find that the decision is consistent with the Wilderness Act and Forest Service policy for wilderness management, and that the minimum requirements analysis for wilderness was adequately analyzed and documented.

See response to Objector Statement #19; prescribed burning in the Wilderness will not be included in the final decision.

**Objector Statement #26:** Objector states that “The Forest Service has not demonstrated that ecosystem modification or modification of natural processes is “the minimum requirement for administering the area as wilderness.” WW at 2, 5 and 6. Objector states that “The only attempt at a wilderness-based justification for the otherwise prohibited activities within the Wilderness is the agency’s allegation that these actions will somehow prevent a large wildfire (they won’t and large wildfires are part of this landscape) reduce the intensity of fire suppression in the future, or possibly allow some natural fires to play their role,” which objector believes is speculative at best and is not based on best/current science. WW at 5, 6, 10-13, 15-16.

**Response:** I find that the decision is consistent with the Wilderness Act and Forest Service policy for wilderness management, and that the minimum requirements analysis for wilderness was adequately analyzed and documented.

See response to Objector Statement #19; prescribed burning in the Wilderness will not be included in the final decision.

**Objector Statement #27:** Objector states that “the Wilderness Act in section 4(d)(1) uses control rather than prevention or pre-suppression of fire. Pre-suppression manipulation is inconsistent with the Act. One can’t control something that doesn’t (yet) exist. The control of fire was narrowly written to apply to fire suppression and detection. The FEIS and ROD misread the Act and conflict sharply with the Forest Service Manual which recognizes there is no broad discretion to light fires in Wilderness.” WW at 3. Objector notes that the Wilderness Act and the Oregon Wilderness of 1984 contains no provision for pre-suppression of fires. WW at 3.

**Response:** I find that the decision is consistent with the Wilderness Act and Forest Service policy for wilderness management.

See response to Objector Statement #19; prescribed burning in the Wilderness will not be included in the final decision.

**Objector Statement #28:** Objector is concerned that the analysis is flawed because “it does not include future trammeling needed to maintain the treated fuels as a consequence of a course of action, leading the reviewer to conclude that such an action is not a foreseeable future action. Yet, it does claim in numerous instances--and incorporates into the analysis of the various alternatives—the highly speculative proposition that *if* a future lightning strike were to occur in the Wilderness, then the action alternatives *could* reduce the agency’s firefighting impact on the Wilderness at that future time.” WW at 16. Objector concludes that “In other words, the agency is saying that an unforeseen event of a lightning strike is not only a foreseeable future action, in terms of NEPA analysis, but is the main justification for this project. On the other hand, actions to “treat fuels” are not deemed foreseeable, even though they would be needed under the assumptions in the FEIS. This inconsistency seriously biases the FEIS.” WW at 16.

**Response:** I find that the analysis acknowledged the potential need for future burning, but that the maintenance burning would only occur outside of wilderness.

In order for a project or activity to be considered for cumulative effects, it must be a “reasonably foreseeable future action,” which is defined by the regulation at 36 CFR 220.3 as “Those Federal or non-Federal activities not yet undertaken, for which there are existing decisions, funding, or identified proposals. Identified proposals for Forest Service actions are described in § 220.4(a)(1).”

While analysis in the MRDG identified beneficial effects to the natural quality of wilderness character from use of prescribed fire to reduce unnatural fuel loads, the analysis does not identify any effects to the untrammled quality of wilderness character from any reduced likelihood of trammeling from fire suppression. FEIS at.403-438. Post-fire activities analyzed as components of the activity in MRDG analysis include monitoring only. FEIS at.409. Similarly, the analysis in the FEIS identified beneficial effects from reduction of fuel loadings and configurations to “that which would be experience under uninterrupted natural fire cycles” as a way to “begin to restore naturalness”; The FEIS did not identify any effects to the untrammled quality of wilderness character from any reduced likelihood of future fire suppression in wilderness. FEIS at 216. The draft ROD described how the selected alternative meets the need to enhance landscape resilience to future wildfires within the Granite Creek watershed not

only because it could reduce future trammeling, but because it increases the probability of fire playing its natural role in wilderness. Draft ROD at 4.

Alternatives 2, 3, and 4 would contain maintenance burning, but only Alternative 2 includes burning in wilderness. FEIS at 14-25. The EIS states that “treatment areas would be maintained through maintenance burning to reduce passive crown fire potential” and that this could take place 3-18 years from initial implementation for drier sites and at longer intervals for moist and cold sites. FEIS at 61. However, it also states that small diameter thinning would be the preferred method; it is not clear, then, if the treatment areas discussed in this part of the EIS exclude treatment areas in wilderness. FEIS at 61, 70. As such, I instruct the Responsible Officials to clarify where maintenance burning is proposed with this project and to clarify that maintenance burning would not occur in the wilderness (as noted in the response to Objector Statement #19, no burning in wilderness will occur).

**Final Remedies/Resolution for Wilderness Act Violations:** The proposal for prescribed fire in the Wilderness will be dropped in the final decision, as described in the response to Objector Statement #19, which partially resolves objector’s concerns about burning in wilderness. As noted in the response to Objector Statement #28, I instruct the Responsible Officials to clarify where maintenance burning is proposed with this project and to clarify that maintenance burning would not occur in the wilderness, as that will be dropped in the final ROD.

### ***Purpose and Need/Scope of Project***

**Overview and Objector’s Suggested Remedies:** These objection issues surround the concern that the Ten Cent project is inconsistent with the purpose and need goals described in the FEIS. Suggested remedy is to drop all prescribed burning in the North Fork John Day Wilderness Area, Inventoried Roadless Areas (IRAs), Land with Wilderness characteristics, undeveloped lands, and Wild and Scenic River corridors and to narrow the feathered fuel reduction bands along major egress routes, and restrict commercial logging sale units to the Wildland Urban Interface zone.

**Objector Statement #29:** Objector states that the project proposed is inconsistent with the stated purpose and need. BMBP at 3.

**Response:** I find that the proposed project is consistent with the purpose and need.

The regulation at 40 CFR 1502.13 states that the purpose and need statement “shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.”

The FEIS specified the underlying purpose and need and discusses the relationship between existing and desired conditions. The FEIS at 3 and 4 stated that the purpose of the project is “to provide a safer working environment for firefighters while improving probability of success in protecting life and property associated with the adjacent private lands in the event of a wildfire within or threatening the vales at risk in the Granite Zone, as defined by the Grant County Community Wildfire Protection Plan.” The identified needs included: the creation of defensible fuel profile zones in order to modify the existing fuels to reduce potential fire behavior to low intensity; the reduction of the probability of crown fire and spotting; the enhancement of landscape resilience to future wildfires within the project area; and, maintenance and enhancement of local communities and economies. FEIS at 4.

The FEIS disclosed metrics to show the existing condition of fuel levels, associated potential wildfire behavior and related risks to values in the project area. The FEIS stated that “over 65 percent of the project area has extreme fire hazard under 97<sup>th</sup> percentile weather and fuel conditions. Extreme fire hazard equates to high flame lengths and varying degrees of crown fire where suppression efforts become ineffective.” FEIS at 4. This existing condition is further elaborated in terms of expected flame lengths and crown fire in the Fire and Fuels affected environment section of the FEIS at 62-67.

The proposed action addressed the purpose and need by proposing “multiple types of fuel reduction treatments designed to increase crown spacing and reduce surface fuels.” FEIS at 8. It included “8,137 acres of stands identified that currently support flame lengths greater than or equal to four feet and have a high potential for crown fire initiation.” FEIS at 9. The environmental consequences relied on modeling that concluded that the proposed action would “result in 23,698 acres being moved from an existing condition hazard rating of ‘Extreme’ to a lower hazard rating” with a majority being moved to low. FEIS at 69. As a direct reflection of the purpose and need, the FEIS concludes that “this change would allow direct attack with hand crews of a wildfire under 97<sup>th</sup> percentile conditions on an estimated 43,019 acres of the planning area.” FEIS at 69. Fire behavior simulation in the FEIS also concluded that treatments in the proposed action “had consistent and significant effects in reducing forest vulnerability to crown fire.” FEIS at 70.

**Objector Statement #30:** Objector states that the purpose and need of the project is overly and narrowly construed and that the project fails to meet/contradicts the purpose and need so as to pre-determine the selection of the action alternative. BMBP at 3; WW at 6-10.

**Response:** I find that the Responsible Officials developed an appropriate purpose and need and that the proposed project is consistent with that purpose and need.

The regulation at 40 CFR 1502.13 states that the purpose and need statement “shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.” The Forest Service Handbook illustrates how the purpose and need should be developed, stating that “the need for action discusses the relationship between the desired condition and the existing condition in order to answer the question, ‘why consider taking any action?’ The breadth or narrowness of the need for action has a substantial influence on the scope of the subsequent analysis. A well-defined ‘need’ or ‘purpose and need’ statement narrows the range of alternatives that may need to be considered.” FSH 1909.15, 11.21.

The FEIS specified the underlying purpose and need and discussed the relationship between existing and desired conditions. FEIS at 3 and 4. The purpose and need narrowed the possible range of alternatives by specifying four needs and illustrating specific measures to evaluate those needs among alternatives. FEIS at 3 and 61-67.

**Objector Statement #31:** Objector WW goes on to state that the narrow purpose and need precludes alternatives/options that are more protective of Wilderness values, characteristics and natural ecological purposes. WW at 7. Objector states that “The purpose and need does not sufficiently consider the preservation of true forest health in the Wilderness, nor does it prioritize or uphold the Wilderness characteristics of the area. The purpose of management (including passive management) in Wilderness areas should be to support Wilderness values. The purposes in the FEIS instead inappropriately prioritize fuel management at the expense of the untrammled component of

Wilderness character, natural ecosystem processes, and other values associated with Wilderness areas. This is done even though there is no clear link in the FEIS between fuel and fire intensity.” WW at 7.

**Response:** I find that the Responsible Official developed an appropriate purpose and need and considered Wilderness values and characteristics in the analysis.

The regulation at 40 CFR 1502.13 states that the purpose and need statement “shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.”

The FEIS listed the potential cause-effect relationship that “Prescribed fire treatments in the Wilderness may have a negative impact on Wilderness characteristics” as Significant Issue #3. FEIS at 12. Alternatives 3 and 4 were developed in response to this issue. Alternatives 3 and 4 do not include any prescribed burning in the Wilderness and therefore does not affect Wilderness values. FEIS at 217.

Wilderness values and characteristics were considered under Alternative 2. The proposed prescribed burning in the Wilderness under Alternative 2 would be controlled in a way that wildfire may not be. The FEIS stated that “landscape level prescribed burning within the wilderness increases the ability of forest managers to manage risk and use monitoring or confine and contain strategies when face with future fires within the Wilderness boundary.” FEIS at 19. In the effects analysis for Alternative 2, the Forest disclosed effects to Wilderness characteristics and explained that prescribed fire would “begin to reduce fuel loadings and configurations to that which would be experienced under uninterrupted natural fire cycles” and “removal of fuels under prescribed fire conditions would protect other wilderness features of value such as big game and anadromous fish habitat, high water quality, and historic features.” FEIS at 216.

**Objector Statement #32:** Objector states that the project fails to meet the stated purpose and need of the project. For example, the FEIS states “[t]he 2015 fire season in the Pacific Northwest was the most severe in modern history and an example of potential outcomes based on current forest condition.” The FEIS failed to adequately consider several key issues regarding underlying assumptions. Objector WW states that there is “considerable scientific evidence that forests within the North Fork John Day Wilderness are not outside the Historic Ranger of Variability” and that the FEIS failed to consider key issues regarding underlying assumptions including: how weather conditions are the primary drivers of fire behavior; how large wildfires are not generally influenced by previous fuels reduction measures (according to Lydersen et al. 2014); how the Johnson et al. 2001 study noted that lightning strikes that occur in the absence of very specific weather systems and dry conditions in similar subalpine forests have a near zero probability of starting a fire; how the District provided “no-fact based rationale for the determination that suppression of these lightning strikes have significantly moved the forests within the project area away from HRV especially since 5,326 acres have burned recently, as reported in the FEIS;” how Wilderness areas are not at increased risk of high severity fire and that they burn with lower severity than forests with less protection, according to Bradley et al. 2016; how the short-term and temporary nature of the “perceived” benefits from this project are not likely to result in meaningful changes to fire intensity, size or severity, according to Rhodes and Baker, 2008; and that firefighters should not be suppressing wildfire in the Wilderness. WW at 8-14.

**Response:** I find that the FEIS used the best available science in considering key issues regarding the purpose and need for the project.

The regulation at 40 CFR 1502.13 states that the purpose and need statement “shall briefly specify the underlying purpose and need to which the agency is responding in proposing the alternatives including the proposed action.” The regulation at 40 CFR 1502.24 states that agencies “shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements...and shall identify any methodologies used.”

The FEIS at 3 and 4 stated that the purpose of the project is “to provide a safer working environment for firefighters while improving probability of success in protecting life and property associated with the adjacent private lands in the event of a wildfire within or threatening the vales at risk in the Granite Zone, as defined by the Grant County Community Wildfire Protection Plan.” The identified needs included: the creation of defensible fuel profile zones in order to modify the existing fuels to reduce potential fire behavior to low intensity; the reduction of the probability of crown fire and spotting; the enhancement of landscape resilience to future wildfires within the project area; and, maintenance and enhancement of local communities and economies. FEIS at 4.

The FEIS disclosed methodologies used and provided rationale for how the project meets the stated purpose and need. The FEIS stated that “over 65 percent of the project area has extreme fire hazard under 97<sup>th</sup> percentile weather and fuel conditions. Extreme fire hazard equates to high flame lengths and varying degrees of crown fire where suppression efforts become ineffective.” FEIS at 4. This existing condition is further elaborated in terms of expected flame lengths and crown fire in the Fire and Fuels affected environment section of the FEIS at 62-67.

**Final Remedies/Resolution for Purpose and Need/Scope of Project:** The Responsible Officials adequately defined the purpose and need of the project and analyzed an adequate range of alternatives that responded to the scope of issues raised.

### ***Direct, Indirect, and Cumulative Effects***

**Overview and Objector’s Suggested Remedies:** These objection issues surround the concern that the Ten Cent FEIS fails to adequately analyze environmental effects throughout the document. Suggested remedy is to prepare an SEIS.

**Objector Statement #33:** Objector states that the Ten Cent FEIS direct, indirect, and cumulative analysis are very inadequate compared to other EAs and EISs reviewed. BMBP at 6-7.

**Response:** I find that the direct, indirect and cumulative effects in the FEIS are adequately disclosed.

The regulation at 40 CFR 1502.16 states that an EIS will include discussions of direct and indirect effects while the regulation at 40 CFR 1508.7 requires a discussion of cumulative effects.

Chapter 3 of the Ten Cent Community Wildfire Protection Project FEIS addresses the direct, indirect and cumulative effects of the project on resource values in the respective resource sections and incorporated by reference all specialist report, which contained additional details. FEIS at 59-235. A list of past, present, and ongoing projects is provided in the FEIS, Appendix C.

**Objector Statement #34:** Objector states that “skips the NEPA required analysis altogether by asserting that: 'Because Forest Plan standards and desired wood levels are expected to be met ... it is expected

that there would be no adverse impacts to the availability and distribution of downed wood material in the analysis area.' (DEIS p. 103, par.2)." BMBP at 6.

**Response:** I find that the FEIS adequately addressed downed wood.

The regulation at 40 CFR 1502.16 states that an EIS will include discussions of direct and indirect effects while the regulation at 40 CFR 1508.7 requires a discussion of cumulative effects.

Chapter 3 of the Ten Cent Community Wildfire Protection Project FEIS addresses the direct, indirect and cumulative effects of the project on resource values in the respective resource sections. The FEIS and Terrestrial Wildlife Report and Biological Evaluation described the current condition and impacts of the proposed project activities on snags and downed wood habitat and the species dependent upon this habitat. FEIS at 90 through 108; Objection Record, Terrestrial Wildlife Report and Biological Evaluation at 21 through 35. The analysis utilizes "DecAID", a synthesis of data and research results pertaining to forests in Oregon and Washington.

Specifically, the FEIS stated that "use of machinery to accomplish commercial thinning, mechanical fuels treatment, and small diameter thinning would directly impact downed wood to some degree by crushing, displacing, or fracturing larger pieces in treatment units and along temporary roads. It is not expected that this would appreciably impact densities or percent cover of downed wood following treatment" FEIS at 107. The FEIS also included effects to downed wood from prescribed burning and danger tree felling along roads. The FEIS stated that "burning treatments have the potential to affect downed wood retained during mechanical vegetative treatment and affect future downed wood recruitment." FEIS at 107. Danger tree felling would "indirectly impact future downed wood densities by removing dead and structurally deficient trees that would be expected to call to the ground in the short and mid-term. It is not expected that this activity would appreciably impact downed wood densities at the analysis area scale due to the amount and location of the areas that would be impacted." FEIS at 107.

**Objector Statement #35:** Objector states that "There is no quantification of the amount of down wood habitat that could be lost or significantly impaired and no analysis of the ripple effects of this to ecological functions such as soil nutrient recycling and carbon sequestration, or to down wood-dependent species such as Pileated woodpecker, American marten, Pacific fisher, and small mammals, in the DEIS .... Admission that Forest Plan standards may not be met are on the same page of the DEIS (See DEIS p. 103, parts 2 and 4.)" BMBP at 6.

**Response:** I find that the analysis of downed wood habitat present in the project area, and direct, indirect, and cumulative impacts were adequately addressed in the FEIS and Terrestrial Wildlife Report and Biological Evaluation. I also find that the analysis of soil impacts were adequately addressed. Based on these analyses I find that the Ten Cent Community Wildfire Protection Project will meet Forest Plan standards for soils, down wood retention, and downed wood habitat.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

The FEIS and Terrestrial Wildlife Report and Biological Evaluation described the current condition and impacts of the proposed project activities on downed wood habitat and the species dependent upon this habitat. FEIS at 90 through 108; Objection Record, Terrestrial Wildlife Report and Biological

Evaluation at 21 through 35. The analysis utilized “DecAID”, a synthesis of data and research results pertaining to forests in Oregon and Washington.

The cumulative impacts to species associated with downed wood is addressed in the FEIS at 108 to 132 and the Terrestrial Wildlife Report and Biological Evaluation at 35 through 109. The FEIS at 109 stated that “Forest Plan standards and desired downed wood cover levels would continue to be met or exceeded at the stand and analysis area scale following vegetative treatment (short and mid-term) where these standards are currently being met. Because this alternative would provide for heterogeneity and a wide range of downed wood conditions across the landscape, cumulative impacts to downed wood resources would likely be the least in the long term, when considering the potential for a large, high severity fire in the analysis area.” Therefore, Forest Plan standards will be met across the project area.

The FEIS at 171 through 178 and the Soils Report addressed the Forest Plan standards and determined that Forest Plan standards will not be exceeded due to the implementation of the Ten Cent Community Wildfire Protection Plan.

The standard and guidelines for Soil Management within the two Forest Plans require the Districts to:

- ...Maintain a minimum of 80 percent of an activity area in a condition of acceptable productivity potential...Acceptable productivity potential is defined as...[less than] severely burned soils that have the top layer of mineral soil significantly changed in color (usually to red), and the next one-half inch blackened from organic matter charring. (Page 4-80; Soil Productivity Standard and Guideline # 2; Umatilla National Forest Land and Resource Management Plan, 1990).
- Minimize detrimental soil conditions with the total acreage detrimentally impacted not to exceed 20 percent of the total acreage within the activity area...Detrimental soil conditions include...severe burning. (Page 4-21; Soil Standard and Guideline #2; Wallowa-Whitman National Forest Land and Resource Management Plan, 1990).

The FEIS described the affected environment and environmental consequences of alternatives on Soils (FEIS at 171 through 179) and consistency with standards and guidelines with regard to Detrimental Soil Condition (DSC). FEIS at 177 through 178. This analysis was further described within the Soil Resource Report within the Affected Environmental and Environmental Consequences sections in the Objection Record, Soil Resource Report at 7 through 16.

The FEIS at 178 described the analysis of DSC from Alternatives 2, 3, and 4. The FEIS at 178 stated that “When the proposed activity was combined with observed DSC totals were made to account for direct and indirect impacts to DSC; in no case was there a unit that exceeded the LRMP limits of 20 percent DSC in an activity unit.”

**Final Remedies/Resolution for Direct, Indirect, and Cumulative effects:** Direct, indirect and cumulative effects were adequately considered in the FEIS and specialist reports. No remedy or resolution is needed.

### ***Best Available Science/Faulty Science***

**Overview and Objector’s Suggested Remedies:** This objection issue focuses on the analysis in the Ten Cent EIS not reflecting accurate use of the best available science. Suggested remedy is to prepare an SEIS and use the best available science and disclose scientific controversy.

**Objector Statement #36:** Objector states that “Prescribed burning in Wilderness is inconsistent with the Wilderness Act and with carbon sequestration to slow climate change. See our enclosed science quotes and citations that support these assertions. The Forest Service did not consider the full range of best available science in project planning.” (Comment# 11-048, FEIS p.303).” BMBP at 8.

**Response:** I find that the project is consistent with the Wilderness Act and that the District did consider the best available science.

The regulation at 40 CFR 1502.24 states that agencies “shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements...and shall identify any methodologies used.”

The FEIS at 301 and 309 addressed this comment, stating “Fire suppression has already created unnatural and ecologically deleterious conditions in the Wilderness. The proposal would remove fuels built up as a result of suppression. Effects on forest density would be highly varied as the fire would burn in a mosaic, in some areas killing the overstory and in others only consuming fuels on the ground. FEIS at 301. Carbon sequestration/climate change is addressed in the FEIS at 233-234 and 376.

**Objector Statement #37:** Objector is concerned that the “Favoring lower severity fires in management activities may create unnatural ecological situations that are deleterious to the wildlife, ecological processes, biodiversity, and wilderness character of the area. Therefore, the post-fire environment and ecology of the Wilderness will be artificially altered and deviate from natural trajectories if this project goes forward.” BMBP at 8.

**Response:** I find that the FEIS utilized the best available science and is consistent with Forest Service Policy and the Wilderness Act.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects. The regulation at 40 CFR 1502.24 states that agencies “shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements...and shall identify any methodologies used.”

Recognizing that fire is a natural process on the landscape, the Minimum Requirements Decision Guide (MRDG) recognized that suppression efforts and prescribed fire efforts will have an effect on the Wilderness Areas and its characteristics. FEIS at 405; Objection Record, MRDG at 3. Neither the Wilderness Act nor Forest Service policy precludes or prohibits the use of prescribed fire in wilderness area; as such, the decision to use prescribed fire as a vegetative management tool in the wilderness does not violate NEPA, the Wilderness Act, or Forest Service Policy. FEIS at 436; Objection Record, MRDG at 34.

The response to comments, FEIS at 331, also addressed the objector’s concerns, noting in particular that “The single proposed prescribed burning within the wilderness would not forgo future high intensity wildfires within the wilderness as a whole. Fire suppression has already artificially altered the natural trajectory of fire in this landscape. Restoring fuel conditions that would allow natural fire to resume its role in the wilderness would improve wilderness character from its current state.”

**Objector Statement #38:** Objector states the FEIS does not align with this current peer-reviewed science, and the FEIS fails to consider controversy and uncertainty regarding the effectiveness of fuels reduction treatments. BMBP at 9; WW at 11-14. Objector states that the District needs to “conduct a quantitative analysis including longer timeframes and larger spatial scales to determine whether or not alleged deviations for historic fire patterns are accurate, and if such alleged deviations would actually influence high intensity fire behavior” and that past fire suppression has not clearly indicated if there is an increase risk in high severity fire, fuels build up or fire return interval. WW at 11.

**Response:** I find that the FEIS uses the best available science and incorporated by reference those documents that support the methodology and effects analysis of the document.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects. The regulation at 40 CFR 1502.24 states that agencies “shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements...and shall identify any methodologies used.”

The FEIS at 60 and 76 document the methodologies used for the fire/fuels and vegetation analysis. Though there may be opposing views on “peer-reviewed” science, the FEIS does incorporate recent and applicable science to the methodology used in analysis potential effects in this project area. FEIS at 252-272. Both potential fire behavior and existing wildfire hazards are displayed in the FEIS at 66-68.

The FEIS adequately describes the link and risk in fuel density loading with an increase risk in high severity fires, fuels build up and fire return interval. FEIS at 60-73. As documented in the Objection Record, Fire/Fuels Specialist Report at 11-13, the District used specific fire regime backed with data and tables to validate the analysis and methodology used in supporting the need for reduced fuel loading.

**Final Remedies/Resolution for Best Available Science/Faulty Science:** The FEIS adequately documented the best available and relevant science that was used in the analysis. No remedy or resolution is needed.

### ***Inadequate Range of Alternatives***

**Overview and Objector’s Suggested Remedies:** This objection issue focuses on the concern that the FEIS had an inadequate range of alternatives. Remedy offered is to reissue an FEIS to present an adequate range of alternatives.

**Objector Statement #39:** Objectors are concerned that the FEIS does not include an adequate range of alternatives. Objector states that “that there is no action alternative that would avoid management impacts in Inventoried Roadless Areas, Land with Wilderness Characteristics [including the North Fork John Day Wilderness Area], and Undeveloped lands” and no alternatives that evaluate varied timing of burns according to the risk and needs of species within the project area. BMBP at 5; WW at 11.

**Response:** I find that the FEIS includes an adequate range of alternatives.

The regulation at 40 CFR 1502.14(a) states that an EIS shall “rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” Alternatives not considered in detail may include,

but are not limited to, those that fail to meet the purpose and need, are technologically infeasible or illegal, or would result in unreasonable environmental harm (FSH 1909.15, 14.4).

The Responsible Officials provided analysis for four alternatives in detail and considered, but eliminated one alternative from detailed study. The alternatives created were responsive to six significant issues that were developed from public scoping comments. FEIS at 11-13. Alternative 3 “addresses significant issues 1 through 5...air quality concerns, inappropriate use of prescribed fire in moist and cold upland forests, maximizing economic values by using mechanical treatments, and inability to protect forest investments such as white pine plantations and subalpine fir stands.” FEIS at 21. Alternative 4 “addresses significant issues 2, 3, and 6...based on comments received regarding prescribed fire in wilderness, wildfire connectivity, and reducing the amount of mechanical treatment by using a lighter thinning approach.” FEIS at 22 and 23. A comparison of alternatives is included in the FEIS illustrating the difference in treatments among alternatives and how each addresses timber volume, purpose and need, significant issues raised by the public, and major resource indicators. FEIS at 37-58.

During the objection resolution meeting, the Responsible Officials clarified that there would be no project activities within the IRAs. The FEIS at 219 documented that there would be no impacts to PWAs. Alternatives 3 and 4 do not prescribe burning in the Wilderness. FEIS at 21-23.

**Final Remedies/Resolution for Inadequate Range of Alternatives:** The FEIS contained an adequate range of alternatives that responded to the purpose and need and issues raised. As noted in the response to Objector Statement #39, the Responsible Officials clarified that there would be no project activities in the IRAs and they will document this in the final ROD. No other remedy or resolution is needed.

#### ***Key Documents/Failure to Disclose Methodologies***

**Overview and Objector’s Suggested Remedies:** This objection issue focuses on the failure to incorporate key documents in the DEIS. Suggested remedy is to prepare an SEIS, limit prescribed fire to outside of the Wilderness, IRAs or PWAs, and disclose the methodologies used for analysis.

**Objector Statement #40:** Objector is concerned that FEIS failed to disclose methodologies and failed to incorporate key documents, stating that not everyone, including the objector always has internet access. BMBP at 10.

**Response:** I find that the FEIS properly disclosed methodologies and incorporates key documents to support the effects analysis.

The regulation at 40 CFR 1502.4(h-j) allows for “Summarizing the environmental impact statement (§1502.12) and circulating the summary instead of the entire environmental impact statement if the latter is unusually long (§1502.19); and (i) Using program, policy, or plan environmental impact statements and tiering from statements of broad scope to those of narrower scope, to eliminate repetitive discussions of the same issues (§1502.4 and §1502.20). Incorporating by reference (§1502.21) is also allowed. The Ten Cent DEIS at 58 incorporated by reference all resource reports, and them summarized them into the DEIS (including the methodologies used), which is allowed for and encouraged by the CEQ regulation at 40 CFR 1500.

I note that the requested information from the interested party was included in the Specialist Reports that were electronically available to the objector and that if any commenter requested information that was referenced in the DEIS, it was sent to them. FEIS at 303.

**Objector Statement #41:** Objector states that the Grant County Fire Plan, which the District tiered to and used as “other direction” did not go through federal NEPA analysis and decision-making to look at the range of impacts or alternatives. Because of this, no alternatives to the non-forest plan direction were considered, and if the agency wishes to use this plan, a forest plan amendment must be completed. WW at 14-15.

**Response:** I find that the FEIS appropriately considered the Grant County Community Wildfire Protection Plan (CWPP) and did not tier to that plan as asserted by the objector.

The regulation at 40 CFR 1502.20 encourages agencies to tier their EIS to eliminate repetitive discussions of the same issues and to focus on actual issues specific to the project. Both the DEIS (at 4 and 7) and FEIS (at 4 and 7) appropriately tiered to the Records of Decision for the Umatilla and Wallowa-Whitman National Forest Final Environmental Impact Statements.

The FEIS at 3 and 4 states the purpose of the project is “to provide a safer working environment for firefighters while improving probability of success in protecting life and property associated with the adjacent private lands in the event of a wildfire within or threatening the vales at risk in the Granite Zone, as defined by the Grant County Community Wildfire Protection Plan.” The CWPP was used to help define the area treated and to help understand the existing and desired conditions found in the project area. FEIS at 2-4. Because the Responsible Officials did not tier to the CWPP, no amendment to the Forest Plans is needed.

**Final Remedies/Resolution for Key Documents/Failure to Disclose Methodologies:** Key documents were made available, either electronically or by hard copy to all commenters and objectors and all necessary documents were incorporated by reference, including documents that disclosed methodologies. The FEIS also appropriately tiered to the EISs for the Forest Plans. No remedy or resolution is needed.

### ***Violations of NFMA/ESA***

**Overview and Objector’s Suggested Remedies:** This objection issue focuses on the concern that the EIS violates the NFMA because it failed to ensure the viability of Management Indicator Species (MIS), violation of management guidelines for Dedicated Old Growth areas, Wild and Scenic Rivers, C7 Special Fish Management areas, and Wildlife Connectivity Corridors, and potential violation of Forest Plan standards for soils and down wood retention through proposed actions. Suggested remedies offered include no commercial logging in MIS habitat and wildlife corridors, no prescribed burning in the Wild and Scenic river corridor or MIS habitat, and drop planned temporary roads.

**Objector Statement #42:** Objectors state that the FEIS violates NFMA because it failed to demonstrate the uplisting and viability of MIS, listed, listed, sensitive and other species, including the following: MIS, including pileated, American three-toed, and blackbacked woodpeckers; American ("Pine") marten; redband trout; Northern goshawk; and Rocky Mountain elk. Sensitive species, including: redband trout; Columbia spotted frog; Rocky Mountain tailed frog; sensitive plants; sensitive/listed aquatic species including: middle Columbia River steelhead trout, bull trout, Western ridged mussel, short faced lanx,

Columbia clubtail, Pacific lamprey, and Westslope cutthroat trout; Pacific fisher; North American wolverine; and bat species. Featured species including: Northern goshawk, American fisher and neotropical migratory songbirds; and listed/proposed species including Canada lynx, wolverine, whitebark pine, and gray wolf. BMBP at 11 and 19; WW at 10.

**Response:** I find that the analysis of potential adverse impacts to wildlife, fish, and plant species populations were adequately addressed in the FEIS and specialist reports. The Wildlife Report and Biological Evaluation, Botany Report and Biological Evaluation, Fisheries Report and Biological Evaluation analyses include all threatened, endangered, proposed, candidate, Region 6 Sensitive, and Management Indicator Species. These analyses do not suggest a concern for the viability of any species populations due to the implementation of the Ten Cent Community Wildfire Protection Project.

The regulation at 36 CFR 219.19 concerning species viability states “Fish and wildlife habitat shall be managed to maintain viable populations of existing native and desired non-native vertebrate species in the planning area. For planning purposes, a viable population shall be regarded as one which has the estimated numbers and distribution of reproductive individuals to insure its continued existence is well distributed in the planning area. In order to insure that viable populations will be maintained, habitat must be provided to support, at least, a minimum number of reproductive individuals and that habitat must be well distributed so that those individuals can interact with others in the planning area.” Forest-wide viability determinations are made for Management Indicator Species, while site- or project-specific effects determinations are made for Threatened, Endangered, and Sensitive species.

The Forest Service Manual (FSM) 2671.44(1) directs land managers to “use the biological evaluation process to conduct and document the program and activities review necessary to ensure that any action authorized, funded, or carried out by the Forest Service is not likely to jeopardize the continued existence of any listed or proposed species or to result in the destruction or adverse modification of critical or proposed critical habitat.”

The FEIS and Wildlife, Fisheries, and Botany specialist reports described in detail the current condition and potential adverse impacts of project activities on habitats and species. Wildlife analysis in the FEIS at 90 through 170, Fisheries analysis in the FEIS at 184 through 189, and Botany analysis in the FEIS at 198 through 204. Specifically, the FEIS addressed the species noted by the objector, including: pileated woodpecker (FEIS at 120-123); American three-toed woodpecker (FEIS at 127-129); and blackbacked woodpeckers; American ("Pine") marten (FEIS at 123-126); redband trout (FEIS at 185-190; Objection Record, Fisheries Resource Report at 19-22); Northern goshawk (FEIS at 130-132); and Rocky Mountain elk (FEIS at 110-117). Sensitive species addressed included: redband trout (FEIS at 185-190; Objection Record, Fisheries Resource Report at 19-22); Columbia spotted frog (FEIS at 148-151); Rocky Mountain tailed frog (FEIS at 151-154); sensitive plants (FEIS at 198-205); sensitive/listed aquatic species including middle Columbia River steelhead trout (FEIS at 184-190; Objection Record, Fisheries Resource Report at 19-22); bull trout (FEIS at 185-190; Objection Record, Fisheries Resource Report at 19-22); Western ridged mussel (FEIS at 185-190; Objection Record, Fisheries Resource Report at 19-22); short faced lanx (FEIS at 185-190; Objection Record, Fisheries Resource Report at 19-22); Columbia clubtail (FEIS at 185-190; Objection Record, Fisheries Resource Report at 19-22); Pacific lamprey (FEIS at 185-190; Objection Record, Fisheries Resource Report at 19-22); westslope cutthroat trout (FEIS at 185-190; Objection Record, Fisheries Resource Report at 19-22); Pacific fisher are not found on either Forest; however, there was a brief mention of fisher in the marten analysis, given they use similar habitat (Objection Record, Wildlife Report at 88-91); North American wolverine (FEIS at 142-145); and bat species (FEIS at 135-138). Featured species were also addressed including: Northern goshawk (FEIS at 130-132);

American fisher (see Pacific fisher above) and neotropical migratory songbirds (FEIS at 165-170); and listed/proposed species including Canada lynx (noted as not present in the project area in the FEIS at 133); wolverine (FEIS at 142-145); whitebark pine (FEIS at 200 and 205), and gray wolf (FEIS at 159-160).

**Objector Statement #43:** Objector states that the FEIS is contrary to science (listing numerous citations) suggesting that bull trout and other ESA-listed species need to be protected from wildfire and that they recover quickly after fires in Wilderness. WW at 10.

**Response:** I find that the science referenced by the Objector regarding bull trout and other ESA-listed species is consistent with the science and analysis found in the FEIS.

The regulation 40 CFR 1502.24 states that “Agencies shall insure the professional integrity, including scientific integrity, of the discussions and analyses in environmental impact statements” and 40 CFR 1500.1(b) states, “NEPA procedures must insure that environmental information is available to public officials and citizens before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.”

The objector quoted the Blue Mountains Forest Plan Revision Draft EIS, but failed to include the preceding sentence that states “Effects of ongoing climate change on riparian and aquatic habitats and species of conservation concern could be reduced by active restoration measures described in appendix A. Improvements in fish passage would enable fish to recolonize drainages impacted by uncharacteristically severe fires.” The sentence then goes on to state that “Redband trout and bull trout have been shown to recolonize severely burned drainages within two years, provided the drainages were physically accessible (i.e., no culvert barriers, and provided that other fish in unburned areas were close enough to discover and move back into the recently burned habitat (Rieman et al. 1997)).” The focus of that entire section of the draft EIS for the Forest Plan is on climate change, along with ensuring habitat is physically accessible.

My review staff could not find anywhere in the Ten Cent FEIS where it is stated that bull trout and other listed species “need to be protected from wildfire”; the MRGD at 4 does allude to protecting anadromous fish spawning habitat via removal of fuels under more controlled fire conditions, which may be what the objector was referring to. Regardless, the rationale for prescribed burning in wilderness is focused on reducing fuel loads to levels consistent with what would have occurred under natural cycles, and it would provide a long term opportunity for agency administrators to monitor future wildfires instead of taking direct suppression action. Objection Record, MRDG at 34.

The FEIS and Fisheries Report and Biological Evaluation states, “Dependent on severity and magnitude, as a disturbance agent wildfire along streams and in RHCAs can produce negative and beneficial effects. Wildfire in RHCAs can consume shade-casting trees which in turn cause increased stream temperatures that can be detrimental to aquatic organisms. Wildfire can benefit fish habitat when fire killed trees fall into streams and create habitat.” FEIS at 186. In addition, the Fisheries Report and Biological Evaluation (at 17) discloses that, “Fish populations may begin repopulating depopulated reaches within 2-5 years, provided a source population remains elsewhere within the watershed (Howell 2006, Rieman et al 2003). These species are adapted to natural disturbance associated with historic fire regimes in terms of their life histories, particularly where individuals spend a portion of their life cycles outside the impacted tributaries or even outside the watershed in question.” As such, I find nothing in the FEIS or Fisheries Resource Report that contradicts the science presented by the objector.

**Final Remedies/Resolution for Violations of NFMA/ESA:** The Responsible Officials documented how the project complied with the NFMA and the ESA. No remedy or resolution is needed.

### ***Forest Plan Standards/PACFISH***

**Overview and Objector's Suggested Remedies:** This objection issue focuses on the concern that the FEIS violates the Forest Plan Standards and management area direction. Suggested remedy offered is no commercial size logging in DOGs, MA 15, ROGs, and PFAs and to avoid burning in the wild and scenic river.

**Objector Statement #44:** Objector states that the FEIS violates Forest Plan Standards by further setting back attainment of PACFISH RMOs. BMBP at 14.

**Response:** I find that the FEIS does not violate the Forest Plan Standards for PACFISH and complies with RMOs.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

Alternatives 2-4 are in compliance with both Forest Plans, as amended by PACFISH. FEIS at 190; Objection Record, Fisheries Specialist Report at 21. The response to comments also fully addressed the objector's concerns in the FEIS, in particular noting that the no treatment buffers would minimize the potential for sediment to enter streams. FEIS at 189-190 and 371-374. The project activities have also been designed to be consistent with relevant PACFISH goals, RMOs and Standards and Guidelines. FEIS at 190; Objection Record, Fisheries Specialist Report at 21.

**Objector Statement #45:** Objector states that the FEIS violates Forest Plan Management guidance regarding dedicated old growth management. BMBP at 15.

**Response:** I find that the analysis of potential project impacts on dedicated old growth management was adequately addressed and the project complies with Forest Plan management guidance regarding dedicated old growth management.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

The goal of these management areas is to protect sufficient suitable habitat for wildlife species dependent upon mature and/or overmature forest stands, and promote a diversity of vegetative conditions for such species (Umatilla LRMP, pg. 4-144) and to maintain habitat diversity, preserve aesthetic values, and to provide old-growth habitat for wildlife (Wallowa Whitman LRMP, pg. 4-89). Unit size and distribution are variable and depend on the vegetation type and the Management Indicator Species (MIS) for which the unit was designated. For pileated woodpecker, the minimum unit size is generally 300 acres; stands can occur in smaller (50 acre minimum) blocks no more than ¼ mile apart. The Forest Plans allow for prescribed burning in C1 and MA15 Old Growth areas. The Forest Plan directions are as follows:

C1 (Dedicated Old Growth – DOG): “Structural and nonstructural habitat improvements (including prescribed burning) and their maintenance may be utilized, but only to maintain or enhance old growth habitat characteristics.” Umatilla National Forest LRMP p. 4-145.

MA15 (Old-Growth Preservation, Wallowa Whitman): “Minimal use of heavy equipment for suppression and prescribed burning will occur in order to protect old-growth characteristics, specifically snags and downed logs.” Wallowa-Whitman LRMP p. 4-90.

The FEIS and Wildlife Report/Biological Evaluation analyzed the impact of landscape burning on Old Growth units. The Old Growth units are Management Areas C1 (Dedicated Old Growth – DOG, Umatilla National Forest) and MA15 (Old-Growth Preservation, Wallowa Whitman) with 540 acres and 560 acres of proposed landscape burning, respectively. No vegetative treatment (hand or mechanical) or temporary roads are proposed. FEIS at 91 through 94; Wildlife Report and Biological Evaluation at 6 through 9.

During the objection resolution meeting, the Responsible Officials did clarify that burn plan prescriptions and ignition patterns will be designed to protect old growth areas during any burns connected to this project. In addition, during implementation, burn plans will address old growth areas as areas of specific concern. The Responsible Officials both stated that backing fire through these areas would create the lowest intensity fires, which would start at the ridges and slowly back down, thus limiting the potential for fire coming from below making an intense run through old growth. This will be documented in the final ROD.

**Objector Statement #46:** Objector states that the FEIS violates Forest Plan standards for soils and down wood retention. BMBP at 16.

**Response:** I find the Responsible Official did not violate the Forest Plan standards for soils and down wood retention.

The standard and guidelines for soils within the two Forest Plans state to:

- ...Maintain a minimum of 80 percent of an activity area in a condition of acceptable productivity potential...Acceptable productivity potential is defined as...[less than] severely burned soils that have the top layer of mineral soil significantly changed in color (usually to red), and the next one-half inch blackened from organic matter charring. (Page 4-80; Soil Productivity Standard and Guideline # 2; Umatilla National Forest Land and Resource Management Plan, 1990);
- Minimize detrimental soil conditions with the total acreage detrimentally impacted not to exceed 20 percent of the total acreage within the activity area...Detrimental soil conditions include...severe burning. (Page 4-21; Soil Standard and Guideline #2; Wallowa-Whitman National Forest Land and Resource Management Plan, 1990).

The FEIS describes the affected environment and environmental consequences of alternatives on soils (FEIS at 171-179) and consistency with standards and guidelines with regard to Detrimental Soil Condition (DSC). FEIS at 177-178. This analysis was further described within the Soil Resource Report. Objection Record, Soil Resource Report at 7-16.

The FEIS at 178 described the analysis of DSC for all action alternatives. The FEIS at 178 states that “When the proposed activity was combined with observed DSC totals were made to account for direct and indirect impacts to DSC; in no case was there a unit that exceeded the LRMP limits of 20 percent

DSC in an activity unit.” The FEIS at 178 refers to the Soils Resource Report for Unit-Specific DSCs anticipated from implementation of the analyzed alternatives. The Objection Record contains a spreadsheet that documents the DSC for all units and numerically shows what the FEIS summarized, which is that no unit exceeds the LRMP limit of 20% DSC.

As for down wood, the Forest Plans, as amended by the Eastside Screens, set forth the standards for retention of down wood. FEIS at 105; Objection Record, Terrestrial Wildlife Report at 22. Reference and current conditions are compared and shows that the Ten Cent analysis area resembles the DecAID reference distributions for the various habitat types, but also points out where there are differences. Objection Record, Terrestrial Wildlife Report at 23-31. The effects analysis summarized in the FEIS at 106-107 and detailed in the Objection Record, Terrestrial Wildlife Report at 31-34, clearly articulates how Forest Plan standards for down wood will be met via retention of existing down wood and no removal of downed wood from non-commercial thinning units.

**Objector Statement #47:** Objector states that the FEIS violates Forest Plan management direction for Wild and Scenic River corridors. BMBP at 18.

**Response:** I find that the proposed action described in the FEIS is consistent with Forest Plan direction for management of the Wild and Scenic River corridors. However, active management in wilderness has been dropped from the decision and therefore no activities would overlap the wild and scenic river corridor.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects.

The FEIS references the applicable standards and guidelines for Wild and Scenic Rivers and explains that because the Wild section of the North Fork John Day River is wholly within the North Fork John Day Wilderness, the most restrictive standards and guidelines will apply. FEIS at 216. These standards and guidelines for the river corridor come from the North Fork John Day Wild and Scenic River Management Plan (1993). FEIS at 6. The FEIS at 216 specifically notes that prescribed burning is permitted and that fire can be used as a tool to meet vegetation management needs. The effects analysis notes that fire would creep down into the Wild and Scenic River corridor (a total of 51 acres of the corridor occurs in the planning area); that is the only activity planned as part of the project within the Wild and Scenic corridor and meets the standard specified in the management plan. FEIS at 216.

**Final Remedies/Resolution for Forest Plan Standards/PACFISH:** The FEIS documented how the project complies with Forest Plan Standards and PACFISH. As noted in the response to Objector Statement #45, the final ROD will include clarifying language on burning in old growth. No other remedy or resolution is needed.

### ***Violations of the Clean Water Act***

**Overview and Objector’s Suggested Remedies:** This objection issue focuses on the concern that the FEIS violates the Clean Water Act by failing to disclose the contents of the Water Quality Restoration Plans. Suggested remedy is to drop all prescribed fire in wilderness and IRAs.

**Objector Statement #48:** Objector is concerned that the FEIS “fails to disclose the contents of the Water Quality Restoration Plans and TMDLs relevant to Ten Cent project area streams and creeks, or to

disclose and analyze what the Forest Service is doing to meet the TMDL and WQMP requirements.” BMBP at 22.

**Response:** I find the Responsible Officials disclosed the contents of the TMDL, water quality restoration plans, and how the project would be consistent with the TMDL for the 303(d) listed stream segments. Therefore, the Ten Cent Project is consistent with the Clean Water Act.

The regulation at 33 U.S.C. 1313 (Clean Water Act) Section 303(d) states that water bodies that violate water quality standards, thereby failing to fully protect beneficial uses, be identified. Total Maximum Daily Loads (TMDLs) must then be completed for the 303(d) listed waterbodies. TMDLs identify loading capacities that are set to limit pollutant levels such that water quality standards are met.

The FEIS at 182 and 183 states that EPA approved a TMDL on December 17, 2010; the John Day River Basin Water Quality Restoration Plan (WQRP) serves as the Forest Service’s TMDL implementation plan. The Hydrology Resource Report at 4 also covers this information.

I asked my staff for further clarification on what stream segments are 303(d) listed, what they are listed for, the approved TMDL, and how the project would be meeting this TMDL; the Districts clarified that the Hydrology Report at 6 and 7 documents which streams are listed and the reason for that listing. These listings include the following: For temperature, Beaver Creek, Bull Run Creek Clear Creek and Granit Creek are all listed under Category 4A and are covered by the TMDL. For biological criteria and sediment, Bull Run Creek and Granite Creek are listed under Category 5 (303(d) listed, but no approved TMDL). While the sediment and biological criteria listings are not covered directly by the TMDL, it does link biological criteria to temperature (see page 128 of the TMDL.

The Hydrology Resource Report at 4 states that “The FS WQRP is consistent with and builds upon existing FS management plans and strategies. The WQRP expects that current policies, regulations and programs including the National Best Management Program (BMP) and PACFISH/INFISH Biological Opinion (PIBO) Effectiveness Monitoring Program will assure compliance with the CWA.” This means that the WQRP ensures consistency with the TMDL. The draft ROD at 13 documented consistency with the Clean Water Act because of the BMPs/PDCs that are used to mitigate possible effects.

**Final Remedies/Resolution for Violations to the Clean Water Act:** The Responsible Officials documented compliance with the Clean Water Act and the Hydrology Resource Report and FEIS documented which streams were 303(d) listed, the pertinent information from the WQRP and the TMDL information for listed streams. No remedy or resolution is needed.

### ***Violations of the National Historic Preservation Act***

**Overview and Objector’s Suggested Remedies:** This objection issue focuses on the concern that the FEIS violates the National Historic Preservation Act (NHPA). Suggested remedy is to drop all prescribed fire in wilderness and IRAs.

**Objector Statement #49:** Objector is concerned that the FEIS fails to analyze the risk of losing cultural sites due to the prescribed fires. BMBP at 23.

**Response:** I find that the FEIS generally addresses the cultural concerns listed with the use of prescribed fire, but that consultation with the State Historic Preservation Office has not been completed.

The regulation at 40 CFR 1502.16 requires that the direct and indirect effects be disclosed, while the regulation at 40 CFR 1508.7 requires disclosure of cumulative effects. In addition, Section 106 of the NHPA compels federal agencies to take into account the effect of their undertakings on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register of Historic Places (36 CFR 60).

The FEIS at 194-198 described the affected environment and stated that the preferred management strategy for all eligible and unevaluated sites to protect them from direct indirect and cumulative effects. The FEIS notes that design criteria are implemented to protect heritage values and avoid ground disturbing actions on heritage sites. FEIS at 197. The analysis of potential effects broadly defines possible impacts by ground operations or prescribed burning and the likelihood that those impacts would occur. Further, Table 3-1 in the FEIS relates relative risk to various cultural resource categories, including prescribed burning. FEIS at 197 and 198. Project Design Features are also prescribed in order to protect cultural resources. FEIS at 26.

During the objection resolution meeting, the Responsible Officials clarified that they would move forward with programmatic agreements with SHPO, using the existing 2004 Region 6 Programmatic Agreement (PA) regarding cultural resource management and the 1984 Programmatic Memorandum of Agreement for Lithic Scatters in lieu of a “project-specific” PA as described in the FEIS (pages ii, iv, 10, 184, 195, 237, 269). This change is strictly procedural in regards to how the Forests will consult with the Oregon SHPO and does not change the activities associated with the proposed action or alternatives from that described in Chapter 2; therefore, the potential effects of implementing the project as described in Chapter 3 are not changed. In addition, they Responsible Officials will further clarify the PDCs described to protect cultural resources that were noted in the FEIS at 26. These clarifications will be done in an errata or addendum to the FEIS and will be noted in the final ROD. The Final ROD will not be signed until consultation with SHPO has been completed.

**Final Remedies/Resolution for Violations of the National Historic Preservation Act:** As described above, the Responsible Officials will clarify their use of the programmatic agreements and the PDCs related to protection of cultural resources in an errata or addendum to the FEIS and in updates to the final ROD. The final ROD will not be signed until consultation with SHPO has been completed.

### ***Alternative Selected***

**Overview and Objector’s Suggested Remedies:** This objection issue focuses on the concern that there was no good rationale used to select Alternative 2 over Alternative 3.

**Objector Statement #50:** Objector is concerned that the rationale of board feet produced versus acres treated is not a good rationale for choosing Alternative 2 over 3. AFRC at 2.

**Response:** I find that the Responsible Officials adequately described their rationale for selecting Alternative 2.

The regulation at 36 CFR 220.4(c) describes how the responsible official shall make a decision “encompassed within the range of alternatives analyzed in the environmental document.”

The draft ROD at 2 clearly outlined the reasons the Responsible Officials did not selecting Alternatives 3 and 4 and noted that Alternative 3 was not selected because it would not be as responsive to the purpose and need because fewer acres were treated with prescribed fire. The Responsible Officials acknowledged that Alternative 3 produced more saw timber, but believed that the amount was not “significantly higher than Alternative 2.”

**Objector Statement #51:** Objector is concerned that Alternative 2 was chosen over 3 for poor rationale related to developing fire adapted communities and they believe Alternative 3 is a better choice to meet objectives. AFRC at 2.

**Response:** I find that the Responsible Officials made their rationale clear as to why Alternative 2 was chosen over Alternative 3.

The regulation at 36 CFR 220.4(c) describes how the responsible official shall make a decision “encompassed within the range of alternatives analyzed in the environmental document. See response to Objector Statement #50.

**Objector Statement #52:** Objector objects to limiting thinning in RHCAs, as described in the draft ROD and FEIS. AFRC at 3.

**Response:** I find that the FEIS and draft ROD adequately address RHCA thinning, in terms of both context and intensity.

The FEIS at 19 notes that for Alternative 2, approximately 3,557 acres of RHCAs would be thinned by manual treatment only and that buffers would be prescribed in accordance with the Blue Mountain Project Design Criteria (PDCs) and PACFISH. FEIS at 5, 36 and 190. The FEIS at 190 documents that the project was designed to comply with the Blue Mountain PDCs, which restrict activities to ensure effects to listed species and their designated critical habitat would be unlikely to be adverse.

The response to comments (FEIS at 375) specifically noted that treatments in RHCAs were designed to move towards attainment of riparian goals and meet riparian management objectives, while still minimizing impacts to listed species and their critical habitat.

**Final Remedies/Resolution for Alternative Selected:** The Responsible Officials fully documented their rationale for their decision. No remedy or resolution is needed.