

COMMENTS OF THE ATTORNEYS GENERAL OF THE STATES OF CALIFORNIA,
OREGON, WASHINGTON, ARIZONA, CONNECTICUT, ILLINOIS, MAINE,
MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA, NEW MEXICO, NEW
YORK, NORTH CAROLINA, RHODE ISLAND, VERMONT, AND WISCONSIN

October 6, 2026

Via Electronic Submission on www.regulations.gov

Joshua White, Acting Director
Ecosystem Management Coordination
201 14th Street SW, Mailstop 1108
Washington, DC 20250-1124

RE: Comments on the U.S. Department of Agriculture's Proposed Rule to Rescind the 2001 Roadless Rule and the Accompanying Draft Supplemental Environmental Impact Statement, FS-2025-0001

Dear Mr. White:

The undersigned seventeen State Attorneys General of California, Oregon, Washington, Arizona, Connecticut, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Mexico, New York, North Carolina, Rhode Island, Vermont, and Wisconsin, (collectively, the States) respectfully submit the following comments on the U.S. Department of Agriculture (USDA) and its sub-agency the U.S. Forest Service's (collectively, the Agency) August 20, 2026, proposed rule to rescind the 2001 Roadless Area Conservation Rule (Proposed Rule) and the accompanying draft Environmental Impact Statement (DEIS). 91 Fed. Reg. 53,827 (Aug. 20, 2026). If adopted, the Proposed Rule would open nearly forty-five million acres of formerly protected forest land to potential new roadbuilding, road reconstruction, and logging, as well as other industrial uses such as mining and oil and gas development. Over 11.5 million acres (twenty percent) of inventoried roadless areas (IRAs) can be found within the boundaries of the undersigned States alone. The Proposed Rule thus threatens the States' interests in protected IRAs that serve as important sources of public drinking water and carbon storage, provide habitat for a diversity of ecosystems and plant and wildlife species, and support a wide variety of outdoor recreation and tourism attractions that support local economies.¹

¹ See Comments on USDA's Notice of Intent to Prepare an Environmental Impact Statement for its Proposal to Rescind the Roadless Rule, by the States of Washington, California, Arizona, Massachusetts, Minnesota, New Mexico, Oregon, and Vermont, Sept. 19, 2025 (Scoping Comments) at 8-22, DEIS, Vol. III at 15-29.

Like prior attempts to rescind the Roadless Rule, the Proposed Rule, if finalized, would not comply with the Administrative Procedure Act, 5 U.S.C. §§ 551-706 (APA), the National Environmental Policy Act, 42 U.S.C. §§ 4321-4347 (NEPA), and the National Forest Management Act of 1976, 16 U.S.C. §§ 1600-1614 (NFMA). The Proposed Rule violates the APA because it is contrary to NFMA as it would change binding management prescriptions within each National Forest without undergoing NFMA's required plan amendment or revision process. The Proposed Rule is also arbitrary and capricious, in violation of the APA, because the Agency fails to justify its change in policy and does not provide a reasoned explanation for its proposal to remove Roadless Rule protections. Additionally, the Proposed Rule does not adequately consider the serious reliance interests that States have developed over the past twenty-five years since the Roadless Rule was implemented. The Proposed Rule also violates NEPA and the APA because its accompanying DEIS is deficient under NEPA for several reasons, including that the Agency provides a deficient purpose and need statement that unnecessarily narrows the range of alternatives that should be considered. The Agency also fails to adequately consider—and in some cases consider at all—the reasonably foreseeable impacts of the alternatives on the human environment, as well as economic impacts on small businesses. Lastly, the DEIS is flawed because the Agency's environmental analysis relied on unlawful NEPA regulations. The Agency should withdraw the Proposed Rule.

I. BACKGROUND

A. Roadless Rule

The Agency adopted the 2001 Roadless Area Conservation Rule (Roadless Rule) in response to a need for a “whole picture” approach to forest management, and with the intent to “provide lasting protection for inventoried roadless areas within the National Forest System in the context of multiple-use management.” *Special Areas; Roadless Area Conservation*, 66 Fed. Reg. 3244, 3246 (Jan. 12, 2001). In promulgating the Roadless Rule, the Agency recognized that local planning efforts “may not always recognize the national significance of inventoried roadless areas and the values they represent in an increasingly developed landscape.” *Id.* at 3246. The Roadless Rule, a national-level rule, was designed to reduce “a major point of conflict” in roadless area management. *Id.*

The Agency's Proposed Rule is just the latest in a long line of failed attempts to eliminate the Roadless Rule's important protections for clean water, intact wildlife habitat, and wild places. The Roadless Rule has repeatedly withstood challenges to its implementation. *See Organized Vill. of Kake v. U.S. Dep't of Agric.*, 795 F.3d 956 (9th Cir. 2015) (describing the Roadless Rule's litigation history). In an early challenge, the Ninth Circuit found “that the [Agency] gave a ‘hard look’ at the complex problem presented” in promulgating the Roadless Rule in 2001, and reversed the district court's issuance of a preliminary injunction that had prevented the Agency from implementing the rule. *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1123-26 (9th Cir. 2002). As a result, the Roadless Rule went into effect in 2003.

In 2005, the Agency attempted to replace the Roadless Rule with a petition process for states or territories containing National Forests to establish regulations with management requirements for all or a portion of the IRAs within the state or territory (State Petitions Rule). *Special Areas; State Petitions for Inventoried Roadless Area Management*, 70 Fed. Reg. 25,654-62 (May 13, 2005). In a challenge brought by several of the undersigned States, the Ninth Circuit affirmed the district court's decision that the State Petitions Rule violated NEPA and the Endangered Species Act, 16 U.S.C. §§ 1531-44, and reinstated the Roadless Rule. *Cal. ex rel. Lockyer v. U.S. Dep't of Agric.*, 575 F.3d 999 (9th Cir. 2009).

The Tongass National Forest, (Tongass) in particular, has been at the vanguard of the fight to preserve the Roadless Rule since the beginning, facing repeated attempts by Roadless Rule opponents to exempt the Tongass from national roadless area protection. In 2015, the Ninth Circuit held that the Agency failed to provide a rational explanation for its previous attempt to discard roadless area protections that, in 2001, it had deemed critical to preserving the Tongass's unique environmental values. *See Organized Vill. of Kake.*, 795 F.3d 956. The Agency made another attempt in 2020, finalizing a rule and Environmental Impact Statement (EIS) exempting the Tongass from the Roadless Rule. *Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska*, 85 Fed. Reg. 68,688 (Oct. 29, 2020). But less than three years later, the Agency reversed that decision, reinstating Roadless Rule protections in the Tongass, finding that the Roadless Rule “str[uck] the appropriate balances among the various values that USDA must consider when managing the Tongass,” and that it “best addresses the needs and concerns of local communities, including Tribal communities.” *Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska*, 88 Fed. Reg. 5252, 5255 (Jan. 27, 2023). Now, the Agency is yet again considering removing Roadless Rule protections in the Tongass as part of the Proposed Rule; and the only other action alternative the Agency considers in its DEIS also includes removal of protections in the Tongass.

B. Statutory Background

1. Administrative Procedure Act

The APA governs the procedural requirements for federal agency decision-making, including the agency rulemaking process. Under the APA, a “reviewing court shall . . . hold unlawful and set aside” federal agency actions found to be “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law,” “without observance of procedure required by law,” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A), (C), (D). An agency action is arbitrary and capricious under the APA where “the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (*State Farm*).

When promulgating a rule, “the agency must examine the relevant data and articulate a satisfactory explanation for its action including a ‘rational connection between the facts found and the choice made.’” *Id.* (quoting *Burlington Truck Lines v. United States*, 371 U.S. 156, 168 (1962)). The agency must also address evidence that materially undermines a factual premise central to its decision. An agency may not “ignore evidence that undercuts its judgment,” or adopt a “clipped view of the record” that considers only evidence supporting its preferred conclusion while disregarding materially contrary evidence; *Genuine Parts Co. v. EPA*, 890 F.3d 304, 312 (D.C. Cir. 2018), *see also Butte Cnty. v. Chaudhuri*, 887 F.3d 501, 510 (D.C. Cir. 2018) (agency must “respond in a reasoned manner to the comments received”). An agency cannot rely on a rationale that the reviewing court must reconstruct from silence or post hoc explanation. *Arrington v. Daniels*, 516 F.3d 1106, 1112–13 (9th Cir. 2008); *Pacific Coast Fed’n of Fishermen’s Ass’n v. U.S. Bureau of Reclamation*, 426 F.3d 1082, 1091 (9th Cir. 2005).

These core principles apply to an agency’s decision to change existing policy. *Fed. Commc’ns. Comm’n v. Fox Television Stations, Inc.*, 556 U.S. 502, 513-15 (2009). Although “[a]gencies are free to change their existing policies,” they must “provide a reasoned explanation for the change.” *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221 (2016) (citing *Nat’l Cable & Telecomms. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 981–82 (2005)). While an agency need not show that a new policy is “better” than the policy or rule it replaced, the agency still must demonstrate that “the new policy is permissible under the statute, that there are good reasons for it, and that the agency *believes* it to be better, which the conscious change of course adequately indicates.” *Fed. Commc’ns. Comm’n*, 556 U.S. at 515. Further, an agency must “provide a more detailed justification than what would suffice for a new policy created on a blank slate” when “its new policy rests upon factual findings that contradict those which underlay its prior policy,” “or when its prior policy has engendered serious reliance interests that must be taken into account.” *Id.* Any “[u]nexplained inconsistency” in agency policy is “a reason for holding an interpretation to be an arbitrary and capricious change from agency practice.” *Nat’l Cable & Telecomms. Ass’n*, 545 U.S. at 981; *see also Organized Vill. of Kake*, 795 F.3d at 968 (holding the Agency failed to provide a rational explanation for its decision to exempt the Tongass National Forest from the Roadless Rule, where the exemption was based on “a direct, and entirely unexplained, contradiction” of the 2001 Roadless Rule’s findings).

2. National Forest Management Act

Under NFMA, the Agency must develop and periodically revise a land and resource management plan (forest plan) for each unit of the National Forest System. 16 U.S.C. § 1604(a), (f). Each forest plan must “provide for multiple use and sustained yield of the products and services obtained” from the forest unit and include coordination of uses relating to “outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness[.]” *Id.* § 1604(e)(1), (f). Forest plans divide a forest unit into different “management areas” that are subject to different prescriptions, such as standards and guidelines. Only after the forest plan provides the standards

and guidelines for a management area can the Agency consider individual, site-specific projects consistent with the forest plan. *Ohio Forestry Ass'n v. Sierra Club*, 523 U.S. 726 (1998). Proposed site-specific projects that occur within a management area must be consistent with a forest plan's management-area prescriptions as well as with the prescriptions applicable to the entire forest unit. See 16 U.S.C. § 1604(i); *Idaho Sporting Cong., Inc. v. Rittenhouse*, 305 F.3d 957, 962 (9th Cir. 2002) (“[A]ll management activities undertaken by the Forest Service must comply with the forest plan, which in turn must comply with [NFMA]....”).

3. National Environmental Policy Act

NEPA “declares a broad national commitment to protecting and promoting environmental quality.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 348 (1989). The statute “ensures that the agency and the public are aware of the environmental consequences of proposed projects.” *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colo.*, 605 U.S. 168, 177 (2025). “Properly applied, NEPA helps agencies to make better decisions.” *Id.*

NEPA has two fundamental purposes: (1) guarantee that agencies take a “hard look” at the consequences of their actions before the actions occur by ensuring that “the agency, in reaching its decision, will have available, and will carefully consider, detailed information concerning significant environmental impacts,” and (2) ensure that “the relevant information will be made available to the larger audience that may also play a role in both the decision-making process and the implementation of that decision.” *Robertson*, 490 U.S. at 349-50.

To achieve these purposes, NEPA requires the preparation of a detailed EIS for any “major federal action significantly affecting the quality of the human environment.” 42 U.S.C. § 4332(2)(C). In taking a “hard look,” NEPA requires federal agencies to consider the direct, indirect, and cumulative impacts of its proposed action. *Idaho Sporting Cong.*, 305 F.3d at 973; *Swain v. Brinegar*, 517 F.2d 766, 775 (7th Cir. 1975); *Hanly v. Kleindienst*, 471 F.2d 823 (2d Cir. 1972). Moreover, “an agency may not rely on incorrect assumptions or data.” *Native Ecosystems Council v. U.S. Forest Serv.*, 418 F.3d 953, 964 (9th Cir. 2005).

II. THE PROPOSED RULE VIOLATES NFMA AND IS THEREFORE CONTRARY TO LAW IN VIOLATION OF THE APA

The Proposed Rule does not comply with NFMA and, accordingly, the APA because it would change binding management prescriptions within each National Forest without undergoing the forest plan amendment or revision process. The Proposed Rule would also hinder the Agency's ability to provide a system of transportation that is economically and environmentally sound, which NFMA requires.

A. NFMA Requires Compliance with the Established Amendment and Revision Process

The Agency must strictly comply with a forest plan's “standards,” which are considered binding limitations. *All. for the Wild Rockies v. U.S. Forest Serv.*, 907 F.3d 1105, 1109–10 (9th

Cir. 2018). If the Agency wants to change the standards and guidelines within a forest plan, it may do so. 16 U.S.C. § 1604(f)(4); *Native Ecosystems Council v. Dombeck*, 304 F.3d 886, 898 (9th Cir. 2002) (“The Forest Service may amend a Forest Plan ‘in any manner whatsoever....’”). But it must follow the amendment or revision processes in NFMA and its own planning rules. See e.g., 16 U.S.C. § 1604(f)(4) (any Forest Plan amendment that results in a “significant change” in the plan requires the preparation of an EIS); 36 C.F.R. § 219.13(b)(3); see also 36 C.F.R. § 219.13(b)(5) (the Forest Service “shall ... [d]etermine which specific substantive requirement(s) within §§ 219.8 through 219.11 are directly related to the plan direction being added, modified, or removed by the amendment,” and then “apply such requirement(s) within the scope and scale of the amendment.”).

The Proposed Rule attempts to change standards and guidelines, among other management prescriptions, within multiple forest plans without amending or revising those plans. Such action would run afoul of NFMA and the APA because those plans incorporate the Roadless Rule itself, or aspects of the Rule. For example, in the Colville National Forest Management Plan, the guidelines expressly incorporate the Roadless Rule and specify that road construction activities will comply with those specific prohibitions. The forest plan provides:

FW-GDL-AS-06. Prohibition on Road Construction and Reconstruction in Inventoried Roadless Areas Road construction and reconstruction activities will comply with requirements of the Roadless Area Rule in effect at the time project-level decisions are made. As of the implementation of this forest plan, the Roadless Area Rule in effect is the 2001 Roadless Area Conservation Rule. In this Rule, direction on road construction and reconstruction activities can be found in Subpart B of 36 CFR 294.12 (b).

DEIS, Vol. I, Appendix 1 at 4 (Colville National Forest Land Management Plan at 73).

Similarly, the Custer-Gallatin National Forest Management Plan expressly incorporates the Roadless Rule as a “standard” for road construction. DEIS, Vol. I, Appendix 1 at 3 (“*Standards (FW-STD-IRA) 01* New road construction or road reconstruction shall not be allowed, except for the exceptions listed in the 2001 Roadless Area Conservation Rule.”).

As Appendix 1 to the DEIS details, there are many examples in which forest plans expressly incorporate IRAs and the Roadless Rule, as well as other management prescriptions, into the forest plan’s standards and guidelines. This is especially true for the nineteen forest plans that were developed after 2012 when litigation over the Roadless Rule subsided. DEIS, Vol. 1 at 8 (“Newer plans, especially the 19 revised under the 2012 Planning Rule and directives, are more likely to identify IRAs as a type of designated areas and may have additional plan components for these areas.”). Each of these National Forests exercised its discretion under NFMA to affirmatively incorporate the Roadless Rule into its own respective forest plans. When it did so, those prohibitions became binding. And to change those binding standards and guidelines, the Agency must amend or revise the forest plans for each National Forest to modify the existing management prescriptions. Anything less would run afoul of

NFMA.

The Proposed Rule and DEIS repeatedly contend that rescission of the Roadless Rule does not effectuate a plan amendment. DEIS, Vol. I at 19 (“No alternatives would compel the amendment or revision of any land management plan.”). But the effects analysis belies that contention. Throughout the DEIS the Agency states that rescission of the Roadless Rule changes the management prescriptions within each forest by removing the prohibitions on timber harvest and road construction. *See, e.g.*, DEIS, Vol. I at 73 (“Increased timber harvest and non-commercial forest management activities are reasonably foreseeable to occur in the potentially affected IRAs.”); *id.* at 83 (“Alternative 2 would expand active forest management opportunities the most, with about 4.8 million acres (sixteen percent of forested areas within potentially affected IRAs) where timber harvest could occur on operable areas and is allowed by current land management plans.”). That is, the Agency’s position appears to be that upon rescission, the Roadless Rule prohibitions would no longer have any effect within a forest, despite the forest plans incorporation of those prohibitions into each plan. It also appears that rescission would remove the IRA designations. But this would effectuate a significant change in standards and guidelines within each forest plan, or at the very least within those forest plans that have affirmatively incorporated the Roadless Rule as a matter of discretion. 36 C.F.R. § 219.13(a) (“a plan amendment is required to add, modify, or remove one or more plan components, or to change how or where one or more plan components apply to all or part of the plan area (including management areas or geographic areas).”). And to the extent the Agency contends that this is merely a clerical change, that assertion is unsupportable. *See* 36 C.F.R. § 219.13(c).

The States do not contest that under the circumstances here the Secretary of Agriculture, and in turn the Agency, has the authority to promulgate nationwide rules under its Organic Act. *Wyoming v. U.S. Dep’t of Agric.*, 661 F.3d 1209, 1234 (10th Cir. 2011).² But it still must comply with NFMA in doing so. With this proposed rescission, the Agency is not writing on a blank slate. It previously exercised its discretion to incorporate IRAs and the Roadless Rule prohibitions into forest plans. When it did so, those specific management prescriptions, in particular the prohibition on road construction and timber harvest, became binding in each National Forest that made them part of its forest plan. The rescission of the Roadless Rule cannot change those standards and guidelines without undergoing the plan amendment or revision process. 16 U.S.C. § 1604(f)(4)

The Agency knows how to make significant changes to multiple forest plans and their respective standards and guidelines. When the U.S. Forest Service (USFS or Forest Service) decided to implement the Northwest Forest Plan, covering 24.5 million acres, it proceeded to amend each forest plan to incorporate those standards and guidelines simultaneously. *Seattle Audubon Soc. v. Lyons*, 871 F. Supp. 1291, 1304 (W.D. Wash. 1994), *aff’d sub nom. Seattle*

² The Organic Act of 1897 allows the Agency to “make such rules and regulations ... to regulate [the national forests’] occupancy and use and to preserve the forests thereon from destruction.” 16 U.S.C. § 551. But it does not supersede the more specific requirements in NFMA.

Audubon Soc. v. Moseley, 80 F.3d 1401 (9th Cir. 1996) (“The ROD amends the planning documents for nineteen national forests and seven BLM districts.”). The simultaneous amendment of multiple forest plans, instead of issuing a national rule under its Organic Act authority, was done to comply with the Agency’s substantive, statutory obligations under NFMA. *Id.* To the extent that the Agency chooses to eliminate the prohibitions in the Roadless Rule in each National Forest, it must do so in accordance with the plan and revision process to comply with NFMA, just as it did with the Northwest Forest Plan.

The Proposed Rule and DEIS suggest that rescission of the Roadless Rule would affect the management prescriptions in each forest plan and removes the IRA designations. *See e.g.*, DEIS, Vol. I at 83. To the extent the Agency intends to have the rescission immediately alter management prescriptions in each forest plan or IRAs, it must undertake those changes through plan amendments or revisions. Alternatively, the Agency could clarify that the rescission does not affect management prescriptions or IRAs until each forest plan can be amended or revised. Anything less would violate NFMA and the APA.

B. The Proposed Rule Would Hinder the Agency’s Ability to Maintain an Economic and Environmentally Sound System of Transportation

The Proposed Rule is not permissible under NFMA because, as discussed in more detail below, the Agency has a history of deferred maintenance backlog that is expected to continue into the foreseeable future (*see* DEIS, Vol. I at 45), and which materially impairs the Agency’s ability to meet the requirements of NFMA. *See F.C.C.*, 556 U.S. at 515 (requiring the rule to be permissible under statute). NFMA requires that the Agency’s system of transportation “be carried forward to meet anticipated needs on an economical and environmentally sound basis, and the method chosen for financing the construction and maintenance of the transportation system should be such as to enhance local, regional, and national benefits[.]” 16 U.S.C. § 608(a). In 2001, the Agency explained that “[t]he National Forest System was founded more than 100 years ago to protect drinking water supplies and furnish a sustainable supply of timber,” but “[n]either objective is fully achievable given the present condition of the existing road system.” 66 Fed. Reg. at 3246. That reality has not changed today, and the Agency admits that there can be long-term adverse effects on soil, water, and air resources if roads are improperly maintained or are not decommissioned. *See* DEIS, Vol I at 108. Because of the Agency’s admitted inability to meet its current and future obligations due to lack of funding, rescinding the Roadless Rule and allowing construction of new roads in IRAs is contrary to the requirements of NFMA and therefore a violation of the APA.

III. THE AGENCY’S FAILURE TO ENGAGE IN REASONED DECISION-MAKING VIOLATES THE APA

The Agency does not provide a reasoned explanation for proposing a rule that is an about-face to the Roadless Rule adopted in 2001. The Agency fails to justify its change in policy, which ignores the “whole picture” approach that it had decided to take in adopting the Roadless Rule. It also does not provide good reasons for rescinding the prohibitions of road

construction and reconstruction in IRAs despite expressing concern about building new roads in IRAs when there was a backlog in deferred maintenance and reconstruction at the time that it adopted the Roadless Rule and which continues today (*see* DEIS, Vol. I at 43-44); and it fails to draw a rational connection between the proposed rescission of the Roadless Rule and the purported improvement in wildfire conditions. Additionally, the Proposed Rule does not adequately consider the serious reliance interests that States have developed over the past twenty-five years since the Roadless Rule was issued. The Agency must therefore withdraw the Proposed Rule to comply with the APA.

A. The Agency Failed to Provide a Reasoned Explanation for Its Proposed Change in Policy.

When adopting the Roadless Rule in 2001, the Agency based its decision on the critical importance of considering management of the National Forest System on a national scale. This was done to avoid the significant risk of piecemeal roadless area reductions not being considered in context of the impacts to the entire National Forest System. At that time the Agency wrote:

At the national level, Forest Service officials have the responsibility to consider the ‘whole picture’ regarding the management of the National Forest System, including inventoried roadless areas. Local land management planning efforts may not always recognize the national significance of inventoried roadless areas and the values they represent in an increasingly developed landscape. If management decisions for these areas were made on a case-by-case basis at a forest or regional level, inventoried roadless areas and their ecological characteristics and social values could be incrementally reduced through road construction and certain forms of timber harvest. Added together, the nationwide results of these reductions could be a substantial loss of quality and quantity of roadless area values and characteristics over time.

66 Fed. Reg. at 3246.

Now, in 2026, the Agency’s rationale to justify the proposed rescission of the Roadless Rule is the exact opposite. Instead of a National Forest System-wide approach to managing the remaining IRAs, the Agency states that decision-making needs to be returned to the local level:

The Department is proposing this rule rescission to reduce regulatory burden and return land management decision making for inventoried roadless areas to local Forest Service officials.

91 Fed. Reg. at 53,827.

This position directly contradicts the Agency’s prior rationale and findings for adoption of the Roadless Rule. “Unexplained inconsistency” between agency actions is “a reason for holding an interpretation to be an arbitrary and capricious change.” *Organized Village of Kake*, 795 F.3d at 966 (citing *Nat’l Cable & Telecomms. Ass’n*, 545 U.S. at 981). Here, the inconsistency

is unexplained.

The Ninth Circuit Court of Appeals considered a similar about-face regarding roadless areas in *Organized Village of Kake*, 795 F.3d 956. In adopting the Roadless Rule in 2001, the Agency determined that “wholly exempting the Tongass from the Roadless Rule ... would risk the loss of important roadless area values, and that roadless values would be lost or diminished even by a limited exemption.” *Id.* at 968. Yet in 2003, when the Agency reversed course and promulgated a rule exempting the Tongass, it found exactly the opposite, concluding that “the Roadless Rule was unnecessary to maintain the roadless values ... [that] are sufficiently protected under the Tongass Forest Plan.” *Id.* In holding that the 2003 rule’s conclusions were inadequate to support the Agency’s changed policy concerning management of the Tongass, the Court wrote:

[t]he 2003 ROD does not explain why an action that it found posed a prohibitive risk to the Tongass environment only two years before now poses merely a ‘minor’ one. The absence of a reasoned explanation for disregarding previous factual findings violates the APA.

Id. at 969.

The Proposed Rule now makes the sweeping determination that consideration of the National Forest System as a whole is unnecessary, as the forest plans are sufficient to protect roadless values:

The land management planning framework ensures each land management plan addresses similar conservation objectives as the 2001 Roadless Rule was intended to address, such as ecological integrity (including air, soil, and water), sources of public drinking water, diversity of plant and animal communities (including federally listed threatened and endangered species), sustainable recreation, scenic character, and protection of cultural and historic resources.

91 Fed. Reg. at 53,828.

But this land management planning framework existed in 2001 at the time that the Agency found it to be insufficient for considering the “whole picture.” And as in *Organized Village of Kake*, the Agency takes the position that roadless values will be protected by the land management planning framework when it previously found the opposite. The Agency has not sufficiently explained how the “whole picture” of ecological characteristics and social values that it found were not sufficiently protected by the land management planning framework in 2001 will be protected by that same framework in 2026. These are disparate factual findings that must be reconciled and, as noted above, there is a heightened burden on the agency to explain the departure from previous factual findings. Doing anything less is plainly arbitrary and capricious.

Among the primary nationwide drivers of the Roadless Rule were the desire to prevent

further fragmentation of the few remaining roadless areas, and the concern that case-by-case local decisions would comprehensively and cumulatively have a large impact. As the Agency found, “[a]dded together, the nation-wide results of these reductions could be a substantial loss of quality and quantity of roadless area values and characteristics over time.” 66 Fed. Reg. at 3246. But besides noting that the Proposed Rule “could potentially have effects on biodiversity by increasing habitat fragmentation,” DEIS, Vol. I at 25, the Agency fails to explain how it will consider the issue of fragmentation nationally in the absence of the Roadless Rule. The Agency has not provided a reasoned explanation of how returning to the land management planning framework alone will address landscape and habitat fragmentation of the system as a whole, and for this reason the Proposed Rule is arbitrary and capricious based on *Organized Village of Kake*.

Similarly, in the Roadless Rule the Agency took the position that roads increased the risk and danger of fire, 66 Fed. Reg. at 3253, but in the Proposed Rule the Agency takes the opposite position that roads can improve wildfire suppression effectiveness, 91 Fed. Reg. at 53,829. This change is not explained at all and presents a direct factual conflict with the Agency’s previous statements.

Finally, the Agency’s unexplained change in policy, which does not adequately address or acknowledge previous factual findings, is highlighted by a glaring inconsistency. The rationale for the Proposed Rule rests on an unsupported factual finding that local management through forest plans is superior and necessary at this time. Yet, the Proposed Rule is a nationwide rule that eschews local management. This inconsistency is entirely unexplained. If the Agency wants local management of IRAs, it can amend or revise individual forest plans under NFMA, but issuing a nationwide rule under the banner of local management is illogical. To comply with the APA, the Agency must reconcile not only its change in position from the Roadless Rule, but also the inconsistency in its present rationale for eliminating it.

B. The Proposed Rule Fails to Provide an Adequate Basis and Explanation for Rescinding the Prohibition on Road Construction and Reconstruction in Inventoried Roadless Areas.

The Proposed Rule, if adopted, will also violate the APA because the Agency fails to provide a reasoned explanation to support a rescission of its prohibition of road construction or reconstruction in IRAs and the proposal is contrary to NFMA. In changing its policy from nationwide protection of IRAs to relying on a local land management planning framework, the Agency also changes its position regarding the prohibition of roads in IRAs and fails to provide good reasons for doing so. The Agency states that it is doing so because “the limited number of roads within inventoried roadless areas and the inability to reconstruct or build new roads to provide the needed access further limit management flexibility.” 91 Fed. Reg. at 53,828. Yet the Agency does not explain how “management flexibility” or any of the other stated reasons for proposing the rescission (e.g., “reducing regulatory burden and returning decisionmaking to local Forest Service officials,” 91 Fed. Reg. at 53,829) justify its proposed rescission when the

same fiscal concerns that existed in 2001 exist today and are even more extensive. *See* DEIS, Vol. I at 43-44. By not providing such an explanation, the Agency fails to provide a good reason for rescinding its prohibition of road construction or reconstruction in IRAs and fails to justify how the proposed rescission would comport with NFMA.

Adopting the Proposed Rule would be an even more pronounced legal error by the Agency than the one it made in *Organized Village of Kake*, in which the Agency made contrary findings and failed to explain why it did so. Here the Agency makes the same or similar factual findings regarding the fiscal concerns relating to construction and maintenance of new roads, but wholly ignores them and proposes a contradictory policy anyway.

In 2001, the Agency concluded that “the size of the existing forest road system and attendant budget constraints prevent the agency from managing its road system to the safety and environmental standard to which it was built.” 66 Fed. Reg. at 3244. The Agency explained that it made “little fiscal or environmental sense to build additional roads in inventoried roadless areas that have irretrievable values at risk when the agency is struggling to maintain its existing extensive road system.” *Id.* at 3246. The Agency notes in the DEIS that “[i]n 2001, the deferred maintenance backlog was estimated at \$8.4 billion for all maintenance levels of roads[,]” and that the deferred maintenance has grown over the last ten years. DEIS, Vol. I at 43-44. In the Proposed Rule, the Agency cites continued budget constraints, simultaneously acknowledging in the DEIS that rescinding the Roadless Rule is likely to measurably “increase overall reported NFS road system deferred maintenance for the NFS road system[.]” 91 Fed. Reg. at 53,829; DEIS, Vol. I at 48-49. If the Proposed Rule is adopted, each new mile of road would need to compete for limited maintenance funding with other new and existing miles of road. DEIS, Vol. I at 42, 47. Moreover, “[c]osts for construction of permanent roads within IRAs are more likely to be much greater than typical road construction because of steep and difficult terrain, extensive earthwork, geotechnical challenges, costly infrastructure such as bridges or tunnels, and accessibility due to isolated locale.” DEIS, Vol. I at 47; *see also* 66 Fed. Reg. at 3245 (“In some cases, road construction costs are higher due to rugged terrain or sensitive ecological factors.”). The increased construction, maintenance, and decommissioning costs would certainly negatively impact the already ailing existing road system inside and outside of IRAs. DEIS, Vol. I at 48-49. Despite the continued existence of this deferred maintenance backlog, the Agency does not explain how it plans to meet its transportation system objective of providing a road system that is safe and efficient for travel, and that can be adequately used for administration, utilization, and protection of forest lands. *See* DEIS, Vol. I at 44.

In support of the Proposed Rule, the Agency makes contrary findings regarding how it may be able to pay for new roads. When the Agency adopted the Roadless Rule, the Agency explained that it was not receiving the “funds needed annually to maintain the existing road infrastructure.” 66 Fed. Reg. at 3246. It also noted that timber sales may “cost more to prepare and sell than they realize in revenues received.” *Id.* Contrary to these previous findings, the Agency now states that financing for construction of roads could be obtained from appropriated

funds, timber purchasers, or cooperative financing with others. DEIS, Vol. 1 at 45. However, it identifies no sufficient funding source for construction and maintenance. Indeed, the Agency has not been receiving the funding needed even to maintain its existing road infrastructure, DEIS, Vol. I at 42. Timber sales and other resource extraction activities may provide some revenue but, just like before, would be insufficient to cover all construction and maintenance costs of all new roads associated with a project, DEIS, Vol. I at 45. Additionally, the Agency points to no cooperative financing plan or scheme that it could implement.

To the extent that the Agency contends that its reasons for rescinding prohibition of road construction and reconstruction in IRAs are to “reduce regulatory burden and return land management decisionmaking for inventoried roadless areas to local Forest Service officials[.]” 91 Fed. Reg. at 53,827, it fails to explain how these are good reasons. New road construction would only *increase* the Agency’s responsibilities to comply with existing laws and regulations, and local Agency officials would be even more constrained from making and implementing decisions due to already strained and dwindling funding. New road construction would add maintenance planning and demands to a system that is at present suffering from a deferred maintenance backlog. DEIS, Vol. I at 48-49. New road system modifications would result in the Agency’s obligation to provide oversight to commercial haulers, schedule and coordinate maintenance of new roads, prepare and enter into road agreements with other public authorities, and shoulder other regulatory and legal burdens. *See* FSM/FSH 7700. The Agency would also need to ensure that all new roads comply with “relevant State and Federal statutes such as the Clean Water Act, NEPA, and Endangered Species Act, and national forest land management plans.” DEIS, Vol. I. at 44. At the time of decommissioning new roads, the Agency would need to provide oversight to ensure that vegetative cover is reestablished within ten years of the termination of a contract, permit, or lease. 16 U.S.C. § 608(b). In other words, “regulatory burden” would only increase under the Proposed Rule.

Further, any decision by local Agency officials regarding the construction of new roads would be imperiled at the outset due to the lack of funding. Funding for constructing, maintaining, and decommissioning new roads will most likely remain insufficient for the foreseeable future, even with new timber sales. *See* DEIS, Vol. I at 45.

Also, the Agency fails to address the recent large reduction in its workforce. *See* Scoping Comments at 39, DEIS, Vol. III at 46. In 2025 alone, the Forest Service lost more than sixteen percent of its workforce.³ The ongoing reorganization of the Forest Service is already resulting in significant attrition, which is expected to continue and will only compound its staffing issues. USDA has—by its own admission—structured the reorganization to force employees to resign and thereby reduce its workforce. *See, e.g., AFGE v. Trump*, No. 3:25-cv-03698-SI, Dkt. 457 at 31 (“USDA has consistently represented ... that its reorganization plans include ...

³ Off. of Inspector Gen., U.S. Dep’t of Agric., OAI Report 25-064-01, U.S. Dep’t. of Agric. Staffing Levels, 3 (Dec. 17, 2025), https://www.oversight.gov/sites/default/files/documents/reports/2025-12/USDA%20Staffing%20Levels%20Final%20Report%20-%20Dec%2017_508-signed.pdf.

downsizing.”). Without an adequate workforce, it is unlikely decisions by local Agency officials will be adequately implemented or enforced. In sum, the Agency fails to justify how “reducing regulatory burden” and “returning decisionmaking to local Forest officials” are good reasons for the Proposed Rule.

In light of these continued fiscal concerns, the Agency fails to explain how it will maintain a system of transportation that is economically and environmentally sound, as required by NFMA. As discussed above, the Agency admits that there can be long-term adverse effects on soil, water, and air resources if roads are improperly maintained or are not decommissioned. *See* DEIS, Vol I at 108. The Agency expects that in the foreseeable future there will continue to be unnecessary funds to properly maintain its road system. *See id.* at 45. Yet the agency suggests adopting the Proposed Rule without explaining how it will reconcile the requirement to carry forward a road system that is economically and environmentally sound while having insufficient funds to properly maintain the existing and any new roads. Without identifying and securing a sustainable construction and maintenance funding source, the Agency cannot meet the requirements of the NFMA.

In sum, in light of the continued financial concerns, the Agency has provided no good reason for proposing a rescission of the prohibition on road construction in IRAs, and has failed to explain how the rescission complies with NFMA when the Agency cannot even meet its current obligations to provide and maintain a transportation system that is economical and protects the environment. The Agency must provide a reasoned justification for proposing rescission of the roadless protection or withdraw the Proposed Rule.

C. The Forest Service’s Asserted Wildfire Rationale Does Not Provide a Reasoned Basis under the APA for Rescinding the Roadless Rule.

The Agency has not established the necessary connection between one of its central rationales for the Proposed Rule—the need for increased wildfire management—and rescission of the Roadless Rule. 91 Fed. Reg. at 53,827, 53,828-30; *see, e.g.*, DEIS, Vol. I at 12, 22. The Agency identifies wildfire as a serious management challenge but does not adequately demonstrate that the Roadless Rule materially impedes wildfire-management measures necessary to address that challenge, that rescinding the Roadless Rule would result in additional wildfire-risk-reduction activities, or that those activities would produce a material net reduction in wildfire risk. *See State Farm*, 463 U.S. at 43; *Dep’t of Commerce v. New York*, 588 U.S. 752, 785 (2019) (agency must “disclose the basis” of its action to permit meaningful judicial review) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 167–169 (1962)); *see also SEC v. Chenery Corp.*, 318 U.S. 80, 94 (1943) (“[T]he orderly functioning of the process of review requires that the grounds upon which the administrative agency acted be clearly disclosed and adequately sustained.”). Instead, the Agency relies on a series of unsupported inferences that its own acknowledgments fundamentally undermine.

The most significant deficiency is the Agency’s treatment of roads and access in the DEIS and the Proposed Rule. The Proposed Rule identifies increased road construction and

access as potential wildfire management benefits of rescission. 91 Fed. Reg. at 53,829; DEIS, Vol. I at 94, 102-03; 105. Yet the Agency’s own record recognizes that greater public access can increase human-caused ignitions. *See* DEIS, Vol. I at 85-90. A recently published nationwide study of Agency forest lands, using wildfire-occurrence and spatial data from 1992-2024 found substantially greater ignition density near roads, particularly for human-caused fires.⁴ The broader body of scientific literature likewise establishes the importance of human-caused ignitions to contemporary wildfire patterns.⁵ Yet the Agency treats roads almost exclusively as a wildfire management and suppression benefit while failing to explain how the increased ignition risk associated with greater access affects its conclusion that the proposed rescission will improve wildfire outcomes.

Additional deficiencies include the Agency’s reliance on a purported limited extent of hazardous fuels treatment within IRAs and a “general sentiment” that roadless designation is a barrier to mechanical treatment. The Agency asserts that the Roadless Rule “prohibitions have removed important management tools for key areas where there are needs or opportunities to address overgrown and fuel-loaded national forests.” 91 Fed. Reg. at 53,828; *see* DEIS, Vol. I at 11. The Agency appears to rely on a purportedly lower percentage of treatment in IRAs, 91 Fed. Reg. at 53,828; DEIS, Vol. I at 11; 96, but substantial fuel management activities do occur in IRAs under existing exceptions. The Agency ignores the fact that previous research “concluded that the 2001 Roadless Rule did not meaningfully constrain hazardous fuel treatment activities when considering the number and area of treatments as a share of total forested land” DEIS, Vol. I at 96. Additional independent analysis found highly similar levels of fuel treatments in IRAs and non-IRA lands, confirming that the Agency does not appear to be impeded in conducting fuel treatments in IRAs as compared to other USFS lands.⁶ “General sentiment” that the

⁴ Gregory H. Aplet, Phil Hartger & Matthew S. Dietz, *Three-Decade Record of Contiguous-U.S. National Forest Wildfires Indicates Increased Density of Ignitions Near Roads*, 22 *Fire Ecology* art. 8 (2026), <https://doi.org/10.1186/s42408-026-00450-2>. Notably, Aplet, et al. was published on January 29, 2026—months before publication of the proposed rule—and was therefore available during the Agency’s preparation of the DEIS.

⁵ *See, e.g.*, John B. Kilbride, James D. Johnston, Robert E. Kennedy, Garrett W. Meigs, & Enoch Martha Francis, *Roadless status under the Roadless Area Conservation Rule is not associated with increased wildfire in the US National Forest System*. *Conservation Science and Practice*, e70411 (2026), <https://doi.org/10.1111/csp2.70411>; Jennifer K. Balch et al., *Human-Started Wildfires Expand the Fire Niche Across the United States*, 114 *Proc. Nat’l Acad. Sci.* 2946, 2946–51 (2017), <https://doi.org/10.1073/pnas.1617394114> (analyzing more than 1.5 million wildfire records across the contiguous United States and finding that human-started fires accounted for eighty-four percent of all wildfires and forty-four percent of total area burned); David J. Mildrexler, Logan T. Berner, Beverly E. Law, Mary S. Booth, *Roadless rule rescission threatens highest integrity forest ecosystems in the United States*, *Biological Conservation*, Volume 321 (2026), <https://doi.org/10.1016/j.biocon.2026.111950>.

⁶ Defenders of Wildlife, Technical White Paper, *Fire Extent and Hazardous Fuels Treatments in Inventoried Roadless Areas* (2025), at 5-6, <https://defenders.org/sites/default/files/2026-04/DOW-white-paper-fire-extent-and-fuel-treatments-in-IRAs.pdf>.

Roadless Rule's prohibitions impede mechanical treatment is a wholly inadequate justification for rescinding the Roadless Rule in the face of evidence that concludes otherwise.

To the extent there is a discrepancy in treatment percentage in IRAs as compared with other USFS lands, the Agency has not adequately explained the reasons for the discrepancy, whether the discrepancy is a problem, and if so, how rescinding the Roadless Rule would address it. Hazardous fuels treatment may be constrained by numerous factors independent of the Roadless Rule, including appropriations, and contracting capacity, treatment costs, terrain, operability, ecological suitability, forest-plan direction, existing access, market conditions, staffing and competing management priorities, and legal requirements.⁷

As discussed in Section III(A), above, the Agency also has not meaningfully reconciled its current rationale with its own prior analysis. In adopting the Roadless Rule, the Agency considered whether road restrictions would impair suppression, increase escaped fires, limit fuels treatment, or increase the likelihood of severe wildfire. Final Environmental Impact Statement, Roadless Area Conservation Rule (Nov. 2000) (2000 FEIS), Vol. 1 at 3-72-123. It concluded, among other things, that: roads were not necessarily an effective strategic wildfire-management measure; building roads into high-risk fire areas can actually increase the risk of human-caused fires; few roads are constructed solely for fire-management purposes; additional roads do not necessarily protect against uncharacteristic wildfire occurrence; roadless restrictions would not increase the number of fires escaping initial attack (approximately ninety-eight percent of fires ignited inside IRAs were successfully controlled at relatively small sizes); and the effect of road construction prohibition on the national suppression program would be negligible. 2000 FEIS, Vol. 3 at 24. The Agency may reach different conclusions now based on changed climate conditions, altered fire regimes, and other new scientific information, but it cannot simply invoke generalized worsening of wildfire conditions over the last twenty-five years as evidence that new roads and increased access will now produce net wildfire risk-reduction benefits when previously it concluded the opposite. The Forest Service must demonstrate that the adverse access-related ignition consequences previously identified no longer matter, or that the benefits of new road access now outweigh them. *See Fed. Commc'ns.*

⁷ The Forest Service's capacity to perform its wildfire prevention and firefighting duties has already deteriorated as a result of staff layoffs, retirement inducements, the deferred resignation program, and significant attrition. In 2025, the Forest Service lost nearly 6,000 employees—approximately 16 percent of the agency. U.S. Dep't of Agric. Office of Inspector Gen., U.S. Department of Agriculture Staffing Levels, OAI Report 25-064-01, at 3 (Dec. 17, 2025), https://www.oversight.gov/sites/default/files/documents/reports/2025-12/USDA%20Staffing%20Levels%20Final%20Report%20-%20Dec%202017_508-signed.pdf. An understaffed Forest Service must devote the limited resources it does have to emergency suppression efforts, making it less capable of performing the preventative fuels reduction work necessary to reduce the number and severity of future fires, creating a devastating cycle. Anna Kenig-Ziesler, Alison C. Cullen & Erin J. Belval, *A Quantitative Analysis of Firefighter Availability and Prescribed Burning in the Okanogan-Wenatchee National Forest*, 8 Fire 167 (2025), <https://doi.org/10.3390/fire8050167> (finding quantitative evidence that lack of firefighter availability due to prior deployment for wildfire suppression or other purposes is a significant barrier to prescribed burning).

Comm’n, 556 U.S. at 515 (agency must show that there are good reasons for the change in policy, that the agency *believes* it to be better, and the change is adequately indicated by the agency’s conscious change of course). The Agency has not answered that question. And, if anything, the updated and expanded body of scientific literature bolsters the findings the Agency made in the 2000 FEIS. The Agency “cannot ignore evidence that undercuts its judgment,” may not minimize contradictory evidence without adequate explanation, and may not rely on a “clipped view of the record” that ignores evidence undercutting its conclusions. *Genuine Parts*, 890 F.3d at 312-13. Unless and until the Agency adequately explains the basis for its contrary conclusions, the Agency’s decision to rescind the Roadless Rule is arbitrary and capricious. *Fed. Comm’n. Comm’n*, 556 U.S. at 515. Any “[u]nexplained inconsistency” in agency policy is “a reason for holding an interpretation to be an arbitrary and capricious change from agency practice.” *Nat’l Cable & Telecomms. Ass’n*, 545 U.S. at 981; *see also Organized Vill. of Kake*, 795 F.3d at 968

The Agency also impermissibly equates “active management” with wildfire-risk reduction without identifying what activities it means, where they will occur, or why they will be effective. “Active management” can include many different activities, including commercial timber harvest, thinning, prescribed fire, road construction, salvage logging, mechanical treatments, habitat manipulation, and other interventions with different and potentially conflicting environmental effects. The scientific literature does not support the categorical proposition that any activity described as “active management” will necessarily reduce wildfire risk.⁸ Rather, treatment effectiveness depends on treatment type, design, location, intensity, spatial arrangement, maintenance, vegetation response, subsequent fire behavior, weather, and other conditions under which subsequent fire occurs.⁹ The Agency cannot substitute the label “active management” for evidence that any particular activities will materially reduce wildfire risk. *See State Farm*, 463 U.S. at 43.

Nor does the mere possibility of increased management flexibility establish a material benefit. The Agency asserts that rescission “would increase opportunities for hazardous fuel treatments in the wildland-urban interface on approximately 9.8 million acres[.]” 91 Fed. Reg. at 53,829. But as the Forest Service repeatedly acknowledges, rescission itself would not authorize any management activities, including wildfire-risk-reduction projects. Rescinding the Roadless Rule would alter the regulatory framework governing future projects but those projects would remain subject to numerous independent constraints. Future fuel reduction treatments, timber harvests, vegetation management, and road construction projects would be subject to applicable land-management plans, project-specific environmental review, and other legal and practical limitations, as well as budgetary limitations, conservation objectives, physical-resource constraints, terrain, operability, maintenance obligations, and market conditions. 91 Fed. Reg. at

⁸ See, e.g., Susan J. Prichard et al., *Adapting Western North American Forests to Climate Change and Wildfires: 10 Common Questions*, 100 *Ecological Applications* e02430 (2021).

⁹ *Id.*

53,829-30. The Agency provides no reasonable estimates of additional road mileage, reduction in burn probability or fire intensity, or reduction in community or infrastructure exposure that would be attributable specifically to rescission. Instead, the Agency acknowledges that only approximately 4.8 million acres—roughly sixteen percent of forested potentially affected IRAs—have both operability and existing land management plan allowances supporting expanded active management opportunities. 91 Fed. Reg. at 53,829. Yet the Proposed Rule would eliminate protection across approximately forty-five million acres. 91 Fed. Reg. at 53,829. The Agency must explain why geographically limited and “modest and localized” opportunities justify eliminating protections across the entire IRA network.

Finally, the Agency’s contention that use of Roadless Rule exceptions has been “limited and inconsistent” because of review and approval requirements is conclusory and unsupported by evidence. 91 Fed. Reg. at 53,828; DEIS Vol. I at 7. The Agency has not identified the number or acreage of fuel reduction treatments prevented by the Roadless Rule, the reasons those treatments could not have proceeded under existing exceptions, or whether the purported inconsistent use of the exceptions could be addressed through Agency guidance or revised exception procedures. *See generally* DEIS, Vol. I. Because the Agency does not track exception use, it cannot reasonably infer that use is limited, nor can it attribute any purported disuse to the inadequacy of the exceptions or the allegedly burdensome process to use them. *See* DEIS, Vol. I at 52-53.

Thus, based on the foregoing, the Agency has not provided a reasoned, evidence-based connection between rescinding the Roadless Rule and a material net reduction in wildfire risk. The Agency has identified wildfire as a serious problem but has not demonstrated that the Roadless Rule has caused that problem, that rescission would result in activities that materially improve it, or that those activities would outweigh the adverse wildfire consequences of increased roads and access. That evidentiary gap is fatal to the Agency’s asserted wildfire rationale under the APA.

D. The Agency Fails to Address Legitimate Reliance Interests.

In addition, the Proposed Rule fails to address legitimate reliance interests in the Roadless Rule that, if ignored, could lead to substantial health, ecological, and economic consequences to cities, states, and residents. When an agency changes course, it must “be cognizant that longstanding policies may have ‘engendered serious reliance interests’” and rationally address those reliance interests in its decision. *Dep’t of Homeland Sec. v. Regents of the Univ. of California*, 591 U.S. 1, 30 (2020) (citations omitted). Accordingly, when changing course, an agency must “assess whether there are reliance interests, determine whether they are significant, and weigh any such interests against competing policy concerns.” *Id.* at 33. Failure to do so renders agency action arbitrary and capricious. *Id.* Here, the Agency failed to rationally address serious reliance interests of the States that have developed in the roughly quarter-century since the Roadless Rule was enacted.

States rely to a significant extent on federal management of land resources to support

drinking water, aquatic resources, recreational resources, and conservation and climate goals, among other things. For example, federal land in Oregon, California, and Washington accounts for fifty-three percent, forty-seven percent, and twenty-eight percent, respectively, of these States' land area. IRAs account for a significant share of the land in each State, making up twenty-one percent, twelve percent, and twenty-one percent of National Forest land in Oregon, California, and Washington, respectively.¹⁰ The characteristics of roadless areas produce spillover effects with consequences for the National Forests and the States. Specifically, roadless areas support clean drinking water, fish and wildlife-dependent recreational spending, climate and conservation goals, and valuable aquatic resources. The Agency failed to adequately consider any of these interests in the Proposed Rule.

Further, States have long relied on the Roadless Rule for an important layer of protection for the historic, archaeological, and historic resources found on USFS lands, many of which are undiscovered because development and archaeological surveys are historically less common in roadless areas. Rescinding the rule and the consequent road construction, timber harvesting, mining, and other potential ground-disturbing activities that would follow, would likely disturb these resources. The Agency must comprehensively evaluate the effects of the proposed rescission on historic property and account for the increased state National Historic Preservation Act Section 106 workloads, which will require additional state staffing and resources and which rescinding the Roadless Rule is likely to create.¹¹ The Agency's failure to rationally consider and address the states' reliance interests in the continued preservation of important historical and archeological resources in Roadless Areas renders its action arbitrary and capricious.

1. States and local governments rely on the Roadless Rule to provide clean, affordable water.

Degraded upstream water quality resulting from rescission of the Roadless Rule may produce a cascade of consequences to which cities, states, and residents will be forced to adjust. States and local governments seriously rely on existing water quality parameters, and the Agency must consider those interests before changing its course. IRAs provide a crucial supply of clean and affordable water to numerous communities throughout our States. An estimated 25.0 million people rely on watersheds influenced by IRAs for their public drinking water supply.¹² And the roadless characteristics of these areas ensure the functioning of these water systems. An increase in road construction and timber harvest will produce sediment and other pollution, which may disrupt these systems, threaten the reliability of water supplies, and

¹⁰ See generally, U.S. Forest Service, Roadless Areas Inventoried by State, <https://www.fs.usda.gov/managing-land/planning/roadless/state-maps>.

¹¹ States receive thousands of projects submitted for Section 106 review under the National Historic Preservation Act (NHPA). Craig Potts, *Section 106 From the SHPO Perspective*, 26 Forum Journal, no. 2, at 40. Adequately reviewing such requests can be time and resource intensive, especially in the context of limited state resources.

¹² Julian D. Olden et al., Assessing the value of the U.S. Roadless Rule for people and nature, 5 PLOS Water 7, e0000538 (2026).

increase costs.

For example, in Oregon, nearly every city in the western portion of the state depends on runoff from the Cascade Mountains for its water supply.¹³ The roadless areas in these mountains protect these municipal watersheds, providing cities with a reliable supply of clean water.¹⁴ One recent study estimated that approximately twenty percent of Oregon's population sources water from watersheds at least partially protected by roadless areas.¹⁵ The quality of this water reduces treatment costs, making water affordable for residents.¹⁶ Bend, Pendleton, and Ashland all secure water from well-defined municipal watersheds that are either entirely subsumed by or significantly overlap with roadless areas.¹⁷ Similarly, Salem relies primarily on the North Santiam River Watershed for its water,¹⁸ cities along the Clackamas River rely on that river's watershed for their water,¹⁹ and Portland relies on the Bull Run River Watershed for its water.²⁰ All of these watersheds originate in National Forests in the Cascades, where IRAs provide crucial protections. There are many more cities similarly situated in Oregon.

In California, IRAs in thirteen of California's National Forests—Shasta-Trinity, Modoc, Plumas, Tahoe, Mendocino, Six Rivers, Eldorado, Sierra, Inyo, Sequoia, Cleveland, San Bernardino, and Los Padres—include sensitive watersheds and waterways that are important sources of water for multiple uses, including drinking water. For example, the IRAs in the southern portion of the Cleveland National Forest include headwaters and tributaries that feed into the San Diego River, which is a source of drinking water for the City of San Diego.²¹ In Northern California, IRAs, such as those in the Eldorado National Forest also include headwaters and tributaries of important water resources like Lake Tahoe, the Sacramento River, and San Francisco Bay.²²

In Washington, Seattle and Tacoma rely on watersheds that lie largely within and are fed

¹³ James R. Strittholt, et al., Oregon's Legacy Wild Forests at 15 (Conservation Biology Institute, 2022), https://consbio.org/wp-content/uploads/2022/05/Oregon_Legacy_Wild_Forests.pdf.

¹⁴ McKinley J. Talty et al., *Conservation value of national forest roadless areas*, 2 Conservation Science and Practice 11, e288, 11 (2020).

¹⁵ Olden et al., *supra* note 12 at 8.

¹⁶ Dominick A. DellaSala et al., *Roadless areas and clean water*, 66 Journal of Soil and Water Conservation, 79–80 (2011).

¹⁷ Strittholt et al., *supra* note 13, at 16.

¹⁸ City of Salem, *North Santiam River Watershed*, <https://storymaps.arcgis.com/stories/6f91a7d24f9c44a193b2a8fc0d13ee32>.

¹⁹ Clackamas River Water Providers, *About the Clackamas River Watershed*, <https://www.clackamasproviders.org/about-the-clackamas-river-watershed/>.

²⁰ City of Portland, *About the Bull Run Watershed*, <https://www.portland.gov/water/about-portlands-water-system/about-bull-run>.

²¹ See The City of San Diego, El Capitan Reservoir, <https://www.sandiego.gov/reservoirs-lakes/el-capitan-reservoir>; see also, The City San Diego Pub. Utilities Dep't, Source Water Sys. Map, https://www.sandiego.gov/sites/default/files/source_water_system_director_map_no_table_2019.pdf.

²² See Roadless Area Map, <https://usfs.maps.arcgis.com/apps/mapviewer/index.html?layers=f6bcf18fe98441dead07c08d44a0cbdb>.

by snowmelt from the Mount Baker-Snoqualmie National Forest.²³ Over two million people rely on this high-quality water source which could be improved by decommissioning of surplus roads, not building of additional roads.²⁴

In New England, IRAs in the Green Mountain National Forest host headwaters for several tributaries to the already impaired Connecticut River that runs through Massachusetts and is a vital natural resource that supports Massachusetts biodiversity, provides habitat for several federal and state-listed species, and supports the Commonwealth's economy for industry, agriculture, and recreation.²⁵ Additionally, IRAs in White Mountain National Forest in New Hampshire protect the Pemigewasset River, the headwater of the Merrimack River, an irreplaceable source of drinking water for over half a million Massachusetts residents and visitors.²⁶

Rescission would open portions of these watersheds to road construction and timber harvest, which could degrade water quality. At a minimum, this is likely to increase treatment costs.²⁷ However, it is also possible that degradation in water quality could be great enough to overwhelm current treatment systems or at least put them at risk.²⁸ Water treatment systems are generally designed by collecting data about the types and amounts of pollutants in the incoming water source.²⁹ Treatment plants are then designed to remove these pollutants.³⁰ Degraded water quality may overwhelm existing water treatment infrastructure and necessitate costly infrastructure upgrades.³¹ Where such upgrades may be especially time-intensive and costly,

²³ Roadmap for Increased Investment in Western Washington's National Forest Road Network, U.S. Dept. Of Transp. Volpe Center, at 10, July 2025.

²⁴ *Id.*

²⁵ See Massachusetts Department of Environmental Protection, Water Quality Data Viewer, <https://arcgisserver.digital.mass.gov/MassDEPWaterQuality/Home/Index> (Integrated List of Waters tab, polygons at the MA/VT border show a large number of "Critical Natural Landscape" and "Core Habitat" areas.); MassGIS Data: MassDEP 2022 Integrated List of Waters (305(b)/303(d)) (August 2023), <https://www.mass.gov/info-details/massgis-data-massdep-2022-integrated-list-of-waters-305b303d>; <https://biomap-mass-eoea.hub.arcgis.com/>

²⁶ See U.S. Army Corps of Engineers, Merrimack River Navigation Project, <https://www.nae.usace.army.mil/Missions/Civil-Works/Navigation/Massachusetts/Merrimack/#:~:text=Merrimack%20River%20Navigation%20Project,in%20the%20river%20at%20Haverhill>; U.S. Environmental Protection Agency, *About the Merrimack*, <https://www.epa.gov/merrimackriver/about-merrimack>.

²⁷ Hanson Mensah-Akutteh et al., *Raw water quality variations and its effect on the water treatment processes*, 9 Cogent Engineering 1, 1 (2022) ("The variation in surface water quality has culminated in the rise in costs and changes in protocols for treating water for consumption by consumers.").

²⁸ Noshin Nawar Reza, Sigrid Peldszus, & Peter M. Huck, *Quantifying drinking water treatment plant robustness with respect to turbidity: examining raw water and treatment*, 296 Water Research 125550, 1 (2026) ("high raw water turbidity can overwhelm drinking water treatment infrastructure and deteriorate treatment performance").

²⁹ Anderson et al., *Water Treatment Plant Design*, 1.2–1.3 (4th ed 2005).

³⁰ *Id.* at 2.12 (describing treatment train alternatives).

³¹ *Id.*

degraded water quality may deprive communities of adequate supplies of safe water for years at a time. This can have numerous negative downstream effects, including affecting water rates, debt servicing, and emergency response services—which assume certain peak volumes of water will be available. To reiterate, and as described above, significant decreases in the quality of incoming raw water can produce a cascade of consequences to which cities, states, and residents will be forced to adjust.

The Agency does not assess any of these issues in the DEIS. It recognizes that “there are more than 7,000 municipal water intakes within watersheds containing potentially affected inventoried roadless area,” providing water to “[a]pproximately 24 million people[.]” DEIS, Vol. I at 121. But the Agency provides only a cursory and conclusory analysis of the effects of rescinding or modifying the Roadless Rule on this water supply. Only a cursory paragraph is dedicated to describing the effects that each alternative may have on municipal water use, which largely avoids any specific discussion about the increased treatment costs, changing management strategies, or any of the changes addressed above. DEIS, Vol. I at 122-24. Rather, the Agency simply states that “[m]ost forest plans acknowledge the need for protections for municipal watersheds with plan components that have an overall management objective to maintain and improve watershed status.” DEIS, Vol. I at 123. This does not sufficiently address the States’ reliance interests.

2. States rely on roadless areas to protect aquatic life.

States, especially in the Pacific Northwest, depend on aquatic ecosystems for a variety of services, most famously salmonid habitat, and have invested significant resources into protecting them.³² Aquatic ecosystems, in turn, rely on IRAs, which protect watersheds and prevent pollution from road construction and timber harvest. Roads impact water quality, hydrology, the mechanics of sediment and debris transport, and the morphology of stream and river channels.³³ The Agency acknowledged that “[r]oads have long been recognized as the primary human-caused source of soil and water disturbances in forested environments.” 2000 FEIS at 3-44. Logging roads and logging potentially increase erosion and deposition rates of sediment in stream channels.³⁴

Deteriorating roads can have even more significant impacts on watersheds and water quality than newer roads, through increased erosion and sedimentation. Poorly maintained roads, especially, result in both acute and chronic erosion, leading to sediment discharges into surface waters, alteration of stream channels, degradation of aquatic habitat, and impacts to fish spawning grounds. Failure of a single poorly placed, designed, or maintained watercourse crossing in steep terrain can release hundreds of cubic yards of sediment to surface waters;

³² Western states are not alone in this. Many eastern states depend on their valuable trout fisheries, which are also supported by clean, cold water from roadless areas. *See* 2000 FEIS, Vol 1 at 3-49.

³³ Alisa W. Coffin, *From Roadkill to Road Ecology: a Review of the Ecological Effects of Roads*, 15 J. of Transport Geography 5, (2007) at 397; Talty et al., *supra* note 14, at 11.

³⁴ Coffin, *supra* note 33, at 398.

multiple failures can result in thousands of cubic yards being released to sensitive water bodies.³⁵ These impacts are compounded during severe storm events, which are increasing in intensity and frequency with climate change, and which can cause wholesale road failures and significant degradation of rivers and lakes.

Since the Agency already has—and has had historically—a large ongoing backlog of roads that need maintenance and has insufficient funds to keep up with the maintenance required, it is foreseeable that the Agency will have difficulty maintaining new roads that are expected to be built in IRAs if the Roadless Rule is rescinded. Nor is the timber harvest that may occur in roadless areas likely sufficient to pay for the costs of roads in these areas— further exacerbating deficits with the Forest Service budget deficits.

Logging also increases the likelihood of a mass movement of sediment, and these sediment pulses result in changes to stream morphology, with deposition of sediment in channels, creating shallower pools and increasing turbidity.³⁶ Logging roads are linked to major increases in erosion rates and delivery of sediment to streams, which can be up to 850% over rates in undisturbed habitat.³⁷ Increased erosion and sedimentation are likely to impact fish and other aquatic life, aquatic ecosystems, and water quality.³⁸ Sedimentation has contributed to long-term declines in salmonid populations, affecting commercial fisheries and rural economies.

In addition, road construction and logging that are expected to occur if the Agency rescinds the Roadless Rule are likely to increase the risk of landslides, which could result in further impacts to aquatic habitats and water quality. In the Agency’s 2000 FEIS for the Roadless Rule, it stated:

The majority of studies conclude that the construction, reconstruction, and maintenance of roads and timber harvest activities in areas with high landslide potential increase the probability of accelerating the occurrence of these events, with the risk of detrimental effects of increased sedimentation in water bodies, aquatic habitats, and drinking water supplies.

2000 FEIS, Vol. 3 at 210 (citing 2000 DEIS at 3-36 to 3-40).

The Agency, when considering adoption of the Roadless Rule in 2000, also considered waters in IRAs “to function as biological strongholds and refuges for many fish species,” 2000 FEIS, Vol. 1 at 3-160, and found that “[a] substantial amount of inventoried roadless areas

³⁵ Hermann Gucinski, et al., *Forest Roads: A Synthesis of Scientific Information* 27-28 (2001), <https://research.fs.usda.gov/treesearch/7769> (“Poor road location, concentration of . . . water by cross-slope roads, inadequate road maintenance, undersized culverts . . . all can lead to road-related mass movements [of sediment.] For instance, 91 percent (66,000 cubic yards) of the annual sediment production by land-use activities (72,200 cubic yards) in the South Fork of the Salmon River (Idaho) is attributed to roads and skid trails[.]”).

³⁶ *Id.*

³⁷ DellaSala et al., *supra* note 16, at 80.

³⁸ Coffin, *supra* note 33, at 398; DellaSala et al., *supra* note 16, at 80.

provide important habitat for Pacific anadromous fish species,” with considerable overlap between IRAs and the habitat ranges of Pacific salmonids—including habitat ranges for chinook, chum, coho, and sockeye salmon, as well as steelhead and coastal cutthroat trout. 2000 FEIS, Vol. 1 at 3-161, Table 3-34 at 3-162.

Aquatic habitats are essential to the States, Tribes, and the economies of our States. Salmonids are especially important to Oregon, California, and Washington, as well as inland states that salmonids reach during their spawning migrations. Significant efforts have been made by the federal government, West Coast States, and Tribes to restore and preserve anadromous fisheries, including fish species listed under the ESA.³⁹ If the Agency rescinds the Roadless Rule, and IRAs can no longer serve as fishery strongholds, efforts to restore salmon and trout fisheries in connected areas with high road densities will be diminished. Funds spent on these restoration efforts will be undercut, as will the numerous values these fish support (e.g., as a food source, cultural lifeway, source of tourism, reserve of biodiversity, etc.).

The Agency crucially fails to address the effect that the persistent maintenance backlog will have on critical state aquatic resources in the DEIS. Although it discusses some of the possible impacts that rescission or reduction of the Roadless Rule would have on aquatic animal species and habitats, including the potential increase in sedimentation from new road construction, it does not address the Forest Service’s persistent maintenance backlog and struggle to keep roads in good repair. DEIS, Vol. I at 151. As discussed above, this is one of the most significant causes of sediment pollution and a serious threat to aquatic species and habitats. *Id.* Rather, it states that biodiversity will not be significantly impacted because “future activities would be designed to avoid or minimize adverse impacts from road construction or reconstruction to biodiversity,” by designing and permitting any specific road construction or timber harvest project in accordance with best management practices, ESA requirements, and other obligations. *Id.*

The Agency’s justification, however, rests on the assumption that, moving forward, the Agency will start maintaining all its roads and keeping them in good repair. That has not been true in the past and, given the Agency’s resource constraints, it is unlikely to be true in the future. Rather, it’s likely that increasing road density will increase traffic and sedimentation, and detrimentally affect aquatic species over time, even if roads are initially constructed according to

³⁹ See e.g., NOAA Fisheries, *Saving Pacific Salmon and Steelhead*, <https://www.fisheries.noaa.gov/west-coast/endangered-species-conservation/saving-pacific-salmon-and-steelhead>; Wash. State Dep’t of Nat. Res., *Watershed Resilience Program*, <https://dnr.wa.gov/aquatics/watershed-resilience-program>; CalFish: A Cal. Coop. Anadromous Fish and Habitat Data Program, *Fisheries Restoration Grant Program*, <https://www.calfish.org/ProgramsData/ConservationandManagement/RestorationProjects.aspx>; Or. Dep’t of Fish and Wildlife, *Native Fish Conservation and Recovery*, <https://www.dfw.state.or.us/fish/CRP/>; Or. Dep’t of Fish and Wildlife & the Klamath Tribes, *Implementation plan for the reintroduction of anadromous fisheries into the Oregon portion of the Upper Klamath Basin* (2021); The Columbia Basin Tribes and First Nations, *Fish passage and reintroduction into the U.S. and Canadian Upper Columbia Basin* (2015).

best management practices. The States will no longer be able to rely on clean un-impacted waters to support their ongoing fish restoration work. This will not only undercut the time, money, and effort that States, Tribes, and other communities have put into fish restoration, but potentially increase the amount of money needed to conduct this work and threaten the numerous businesses, communities, and practices that rely on these fish.

3. States rely on roadless areas for recreation.

States, businesses, and communities rely on IRAs for recreation and the income it generates, not only from people who visit these areas directly but from those who recreate near these areas. IRAs sometimes abut popular recreation areas like national parks and designated wilderness areas, extending the natural landscape and contributing to the feeling of serenity and isolation. Similarly, IRAs protect habitat for numerous terrestrial and aquatic species, providing opportunities for hunting, fishing, wildlife viewing, and the goods and services that support these activities. States and other governments benefit from, and rely on, the taxes and other revenues these activities produce.

Oregon's IRAs provide significant recreational opportunities. As demand for recreational opportunities increases within Oregon's National Forests, IRAs become even more important. For example, some of the National Forests are located near major population centers, which continue to experience increasing demand for recreational opportunities. One example is the city of Portland's proximity to Mt. Hood National Forest. Rescinding the Roadless Rule could limit opportunities for certain types of wilderness recreation within Oregon at a time when demand is increasing. Although rescission could increase recreational opportunities in some areas, it will decrease other opportunities. As noted in the DEIS, "As a result, users seeking a more natural setting are more likely to experience decreased availability of their preferred recreation setting or be displaced to other areas." DEIS, Vol. I at 180.

In California, IRAs provide important opportunities for recreation. For example, the IRAs in the southern portion of the Cleveland National Forest include headwaters and tributaries that feed into the San Diego River.⁴⁰ As it discharges into the Pacific Ocean, the San Diego River forms an estuary that is home to many birds, fish, and reptiles. The river and estuary provide access to numerous forms of recreation, such as wildlife observation and photography, hiking, and dog walking at an adjacent dog beach.⁴¹ Similarly, the IRAs in the Angeles National Forest and Los Padres National Forest include headwaters and tributaries that feed Castaic Lake and Lake Piru, respectively, two important recreation areas in Los Angeles and Ventura

⁴⁰ See The City of San Diego, El Capitan Reservoir, <https://www.sandiego.gov/reservoirs-lakes/el-capitan-reservoir>; see also, The City San Diego Pub. Utilities Dep't, Source Water Sys. Map, https://www.sandiego.gov/sites/default/files/source_water_system_director_map_no_table_2019.pdf.

⁴¹ See San Diego River Park Foundation, Recreation Areas, <https://sandiegoriver.org/discover/recreation-areas/>.

Counties.⁴²

Other types of recreation that benefit from roadless area protection include hiking the Pacific Crest Trail, camping at sites like the Ponderosa and Nacimiento campgrounds in the Los Padres National Forest, and hiking up to overlooks near the Convict Flat campground in the Sequoia National Forest, among others.⁴³ These opportunities would be especially negatively affected by rescission.

Roadless areas in Washington provide opportunities to enjoy scenic vistas, hunting, camping, fishing, and hiking, all of which attract business development within the State. Washington State sees billions of dollars' worth of benefit from recreation in the forest system. This includes the economic benefit the State sees from recreational and commercial fishing of anadromous fish, such as salmon, that spawn in forested lands. More broadly, outdoor recreation in Washington supports \$26.5 billion in annual expenditures from residents and tourist on trips, fishing, boating, and outdoor recreation gear.⁴⁴ This amounts to over \$40 billion in total economic contributions, about \$400 million of which are tied directly to USFS lands.⁴⁵ One study from 2018 found that IRAs in Washington support 240 full- and part-time jobs as well as \$25 million (in 2018 dollars) in regional output, amounting to over \$33 million in 2026 dollars.⁴⁶ Rescission of the Roadless Rule would allow development in these areas that could reduce recreation and impact fish harvests.

The Agency only partially addresses the States' reliance interests in recreation in the DEIS. Nor did it "explain 'good reasons for the new policy'" to justify these effects. *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 223 (2016) (quoting *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009)). While the Agency acknowledges that its proposed action could lead to economic losses, it does not analyze what this means for affected communities or states that rely on revenues generated from this economic activity. DEIS, Vol. I at 219-25. This cursory analysis is insufficient to address the States' reliance interests. See *Encino Motorcars, LLC v. Navarro*, 579 U.S. at 223.

⁴² See generally U.S. Forest Service, Roadless Area: 2001, Idaho, and Colorado Rules Combined (Roadless Area Map), [https://usfs.maps.arcgis.com/apps/mapviewer/index.html?layers=f6bcf18fe98441dead07c08d44a0cbdb;Friends of Castaic Lake, Castaic Lake State Recreation Area, https://www.castaiclake.com/lakerecreationguide; United Water Conservation District, Lake Piru Recreation Area, https://explorelakepiru.com/](https://usfs.maps.arcgis.com/apps/mapviewer/index.html?layers=f6bcf18fe98441dead07c08d44a0cbdb;Friends%20of%20Castaic%20Lake,Castaic%20Lake%20State%20Recreation%20Area,https://www.castaiclake.com/lakerecreationguide;United%20Water%20Conservation%20District,Lake%20Piru%20Recreation%20Area,https://explorelakepiru.com/)

⁴³ *Id.*

⁴⁴ Earth Economics, Economic Analysis of Outdoor Recreation in Washington State, 2020 Update, at 13, <https://rco.wa.gov/wp-content/uploads/2020/07/EconomicReportOutdoorRecreation2020.pdf>, (hereinafter Economic Analysis).

⁴⁵ *Id.* at 15.

⁴⁶ Hjerpe, E.; Aldrich, G.A. *Economic Values and Contributions of Roadless Areas*, Conservation Economics Institute, at p. 17 (2018), https://www.researchgate.net/publication/336444790_Economic_Values_and_Contributions_of_Roadless_Areas.

4. States rely on roadless areas to meet statewide conservation and climate goals.

The Agency also fails to address States' reliance on IRAs to meet conservation and climate goals. California has a goal to protect thirty percent of California's lands and coastal waters by 2030 (30x30 goal).⁴⁷ The aim of the 30x30 goal is "to help accelerate conservation of [California's] lands and coastal waters through voluntary, collaborative action with partners across the state to meet three objectives: conserve and restore biodiversity, expand access to nature, and mitigate and build resilience to climate change."⁴⁸ California did not start its 30x30 effort by itself; it was part of a national and global effort.⁴⁹ As of January 2026, the following 10 states have established statewide 30x30 goals and are currently in the process of implementing them: California, Hawaii, Maine, Maryland, Massachusetts, New Jersey, Nevada, New Mexico, New York and Vermont.⁵⁰ Currently, California has classified approximately 26.5 million acres of terrestrial area (26.1% of California) as acres conserved.⁵¹ This conservation area includes IRAs; therefore, a rescission of the Roadless Rule could impact California's ability to achieve the 30x30 goal.⁵²

Similarly, Oregon has a goal to use lands within the state to "[s]equester at least an additional 5 [million metric tons of carbon dioxide equivalent] per year in Oregon's natural and working lands and waters by 2030, and at least 9.5 [million metric tons of carbon dioxide equivalent] per year by 2050 relative to a 2010 to 2019 activity based, business-as-usual net carbon sequestration baseline."⁵³ This goal is designed to work in tandem with Oregon's other climate mitigation efforts so that "Oregon could be net neutral and fully contributing to climate repair before 2040[.]"⁵⁴ To do this, Oregon recognizes that "it will also be critical to work with our federal land managing agencies to ensure their land-use and management plans and programs support achieving Oregon's sequestration goal."⁵⁵ IRAs, which are some of our nation's most prolific carbon sequesters, are key to this effort. Rescission or reduction of the Roadless Rule would threaten Oregon's ability to meet its goal.

Washington, although it has not formally adopted a 30x30 goal, has strong conservation

⁴⁷ Cal. Nat. Res. Agency, Conserving 30 percent of California's lands and coastal waters by 2030, <https://www.californianature.ca.gov/>.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ National Caucus of Environmental Legislators, *30x30 Midpoint: Are States on Track to Conserve 30% of Land and Waters by 2030?*, <https://ncelenviro.org/articles/30x30-midpoint-are-states-on-track-to-protect-30-of-land-and-waters-by-2030/>

⁵¹ See Cal. Nat. Res. Agency, Conserved Areas Explorer, <https://experience.arcgis.com/experience/83b5c08cae8b47d3b7c623f2de1f0dcc>.

⁵² *Id.*

⁵³ Oregon Global Warming Commission, Natural and Working Lands Proposal, 8 (2021), <https://digitalcollections.library.oregon.gov/nodes/view/260160>.

⁵⁴ *Id.*

⁵⁵ *Id.* at 12.

programs and state-specific goals to safeguard ecosystem, biodiversity, and cultural values. Washington has also set targets to reduce emissions and prepare for climate impacts. All of Washington's climate policies work toward a single goal: reducing climate pollution by 95% by 2050 (net zero).⁵⁶ Scientists indicate that Washington must get to net zero by 2050 to avoid the worst climate impacts, so Washington legally committed itself to this goal through enactment of the Climate Commitment Act. *Washington Climate Commitment Act*, Washington Rev. Code Wash. § 70A.65.900.

The Commonwealth of Massachusetts has developed the Clean Energy and Climate Plan for 2050 (2050 CECP), a comprehensive and aggressive plan to achieve Net Zero greenhouse gas emissions in 2050.⁵⁷ The 2050 CECP highlights a broad suite of specific goals, strategies, policies, and actions to achieve Net Zero, defined as an 85% reduction in GHG emissions from 1990 levels and a level of total emissions equal in quantity to the amount that is removed from the atmosphere and attributable to the Commonwealth (2050 CECP). Increases in logging and other industrial activities in the Green and White Mountain National Forests resulting from the Proposed Rule are likely to add increased medium- and heavy-duty vehicle (MHDV) traffic on Massachusetts roads, further exacerbating emissions in the Commonwealth's most emitting sector: transportation. Even a minor increase in these types of vehicles can have significant consequences on the state's ability to meet its emissions reduction mandates. While less than 4% of the state's registered vehicles, MHDVs account for more than a quarter of all transportation sector emissions.⁵⁸ The 2050 CECP sets out policies specific to each of the sectors of the economy but recognizes that clean energy technologies across certain sectors face challenges, in particular, emissions from the transportation sector. The 2050 CECP notes that long-haul heavy-duty trucks are both harder to electrify and are mostly registered out-of-state.⁵⁹ Increases in logging and other industrial activities in the Green and White Mountain National Forest as a result of the Proposed Rule, will add more heavily-polluting industrial vehicles to Massachusetts roads, increased difficulties meeting its GHG reduction goals should its two neighboring National Forests experience an increase in logging and other industrial activity.

Connecticut, Maine, Maryland, Massachusetts, North Carolina, and Wisconsin have

⁵⁶ See The Big Seven: Washington's biggest climate policies, <https://climate.wa.gov/washington-climate-action-work/big-seven-washingtons-biggest-climate-policies>

⁵⁷ Clean Energy and Climate Plan for 2050, Massachusetts Executive Office of Energy and Environmental Affairs, <https://www.mass.gov/doc/2050-clean-energy-and-climate-plan/download>.

⁵⁸ Second Assessment of the Electric Vehicle Infrastructure Coordinating Council (EVICC) at 61, Massachusetts Executive Office of Energy and Environmental Affairs, <https://www.mass.gov/doc/complete-second-assessment-of-the-electric-vehicle-infrastructure-coordinating-council/download>.

⁵⁹ Clean Energy and Climate Plan for 2050, *supra* note 58 at 16, (long haul trucks will be challenging to electrify, primarily because the greater energy density of liquid fuels may prove essential to operating these modes of transportation effectively; Massachusetts' ability to achieve significant emission reductions in transportation is limited by jurisdictional issues).

similar natural and working lands goals.⁶⁰ The Agency does not address these States' reliance on IRAs to meet their statewide goals, nor how its action will affect their ability to do so.

Overall, the Agency does not address these States' reliance interests in the continued existence protected IRAs. Its failure to consider these interests and provide a reasoned explanation for its decision to override these interests renders its action arbitrary and capricious.

IV. THE DRAFT EIS DOES NOT COMPLY WITH NEPA

The Agency's DEIS that accompanies its Proposed Rule is equally deficient, as it fails to satisfy the requirements of NEPA and the APA in numerous ways. The DEIS' purpose and need statement is arbitrary and capricious and is unnecessarily narrow, in part contributing to the Agency's subsequent failure to consider a reasonable range of alternatives. The Agency also fails to take a "hard look" at the environmental impacts of the alternatives considered in the DEIS, including by: failing to analyze impacts at the appropriate scale in the DEIS; unlawfully deferring much of its analysis to future site-specific projects; failing to adequately consider—and in some cases consider at all—all reasonably foreseeable direct, indirect, and cumulative environmental impacts of the alternatives; and failing to identify feasible mitigation measures.

A. The Agency's Statement of Purpose and Need is Unreasonably Narrow and Unlawfully Limits the Range of Reasonable Alternatives.

NEPA requires an environmental impact statement to "include a statement of purpose and need that briefly summarizes the underlying purpose and need for the proposed agency action." 42 U.S.C. § 4336a(d). Although agencies have discretion in drafting the purpose and need statement, *Env't Def. Ctr. v. Bureau of Ocean Energy Mgmt.*, 36 F.4th 850, 876 (9th Cir. 2022), they may not define it so narrowly that the outcome is preordained or reasonable alternatives are excluded. *Alaska Survival v. Surface Transp. Bd.*, 705 F.3d 1073, 1084 (9th Cir. 2013); *City of Carmel-by-the-Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1997); *Friends of Southeast's Future v. Morrison*, 153 F.3d 1059 (9th Cir. 1998) at 1066 (quoting *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991)). That is exactly what the Agency has done here.

The Agency's stated purpose is to "reduce regulatory burden," return land management decision-making for IRAs to local Forest Service officials, and increase management flexibility, which it claims is needed to respond to "changing and localized conditions," including wildfire risk, insect and disease outbreaks, and wildland-urban interface concerns. 91 Fed. Reg. at 53,827-28. The Agency also invokes broader administration policies favoring deregulation, increased timber production, energy development, and rural economic opportunity. 91 Fed. Reg.

⁶⁰ Oregon Global Warming Commission, *supra* note 53, at 4, n.3; 5.

at 53,827–29.⁶¹ Although an agency “can consider policy objectives in a purpose and need statement,” *Klamath Forest All. v. United States Forest Serv.*, 746 F. Supp. 3d 761, 769 (N.D. Cal. 2024) (cleaned up), it cannot define its purpose and need in terms of its preferred regulatory outcome. Here, defining the need as returning decision-making to local officials effectively mandates the rescission of the Roadless Rule, effectively excluding any alternative that would retain meaningful national protections while also addressing particular management concerns.

For example, reasonable alternatives that would retain national roadless area protections while expanding particular exceptions, streamlining exception procedures, authorizing specified treatments, or adopting geographically targeted amendments that could address demonstrated wildfire, forest-health, or community-protection needs would fail by definition because they would not return decision-making authority to local officials. The Agency has therefore impermissibly embedded its preferred institutional outcome into the statement of purpose and need, rendering the alternatives analysis a “foreordained formality.” *City of Carmel-by-the-Sea*, 123 F.3d at 1155; *Friends of Southeast’s Future*, 153 F.3d at 1066 (quoting *Citizens Against Burlington, Inc.*, 938 F.2d at 196); *Westlands Water Dist. v. U.S. Dep’t of Interior*, 376 F.3d 853, 865-68 (9th Cir. 2004); *Nat’l Parks & Conservation Ass’n v. Bureau of Land Mgmt.*, 606 F.3d 1058, 1070-71 (9th Cir. 2010).

The Agency’s statement of purpose and need is also arbitrary and capricious because it rests on unexplained departures from and contradictions with the Agency’s own prior factual findings. *See Organized Vill. of Kake*, 795 F.3d at 966-69. The Agency now relies on the existence of the NFMA planning framework to address “similar conservation objectives as the 2001 Roadless Rule was intended to address,” 91 Fed. Reg. at 53,828, but the Roadless Rule was promulgated with full awareness and against the background of that very statutory framework. Indeed, in promulgating the Roadless Rule, the Agency found that local planning may not always recognize the national significance of IRAs, and reliance on local decisions would foreseeably lead to a “substantial loss of quality and quantity of roadless area values and characteristics over time.” 66 Fed. Reg. at 3,244-46; *see* 2000 FEIS, Vol. 1 at 1-15. The Agency has not identified any changes in the operation of NFMA planning since 2001 that would support its current contrary conclusion, nor has it explained why those prior findings no longer apply. Nor has the Agency adequately addressed its prior factual findings that not implementing a national rule, and instead relying on local management decisions, would result in adverse

⁶¹ The Agency’s inclusion of certain Executive Orders as part of its statement of purpose and need is also in direct conflict with its purported need to “return land management decisionmaking for [IRAs] to local Forest Service officials,” and “increase local management flexibility,” *id.* at 53,827-28, revealing the Agency’s true deregulatory purpose for rescinding the Roadless Rule. The Executive Orders mandate increased timber and energy production, while also directing agencies to shortcut critical environmental reviews. *See* EO 14225, *Immediate Expansion of American Timber Production*, 90 Fed. Reg. 11365 (Mar. 1, 2025); EO 14154, *Unleashing American Energy*, 90 Fed. Reg. 8353 (Jan. 20, 2025); EO 14153, *Unleashing Alaska’s Extraordinary Resource Potential*, 90 Fed. Reg. 8347 (Jan. 20, 2025). These directives, which the proposed rule expressly purports to advance, inherently constrain, rather than restore, local agency discretion.

effects on ecosystem, watershed, and forest health, as well as biodiversity, scenic quality, and recreational values. NEPA requires analysis of the consequences of the actual alternatives, not merely acceptance of the Agency's preferred institutional objectives.

The Agency's vague assertions of generalized wildfire, forest health, community protection, and access needs present the same problem. 91 Fed. Reg. at 53,827-28. The Agency acknowledges that rescission itself would authorize no ground-disturbing activities, require no timber harvest nor road construction, compel no forest plan amendment or revision, and would leave future management decisions to future processes at the forest and project levels. 91 Fed. Reg. at 53,829. Rescission therefore would not itself reduce wildfire risk, treat insect or disease outbreaks, protect communities, construct a road, or conduct a vegetation treatment. Instead, the Agency relies on the possibility that local officials may later authorize unspecified activities. That contingent possibility does not establish a concrete underlying need to rescind the Roadless Rule.

Likewise, the Agency has not substantiated its premise that the Roadless Rule has resulted in a lack of active management contributing to forest health concerns. The Agency contends that the Roadless Rule limits vegetation management, thereby contributing to forest health concerns, but the Agency's own analysis undermines any assertion that the Roadless Rule prevents meaningful management. The Forest Service itself identifies substantial management activity within IRAs, including hazardous-fuels reduction and timber harvest under the rule's exceptions. A Rocky Mountain Research Station study found that the Forest Service's fuel management activities in roadless areas have actually been more numerous on a per-square-kilometer basis than elsewhere in the National Forest System.⁶² Additionally, while the Agency states that "road restrictions would continue to limit opportunities for mechanical thinning and fire control," the Agency's own "records show that a lack of roads has not prevented fire prevention or protection measures, especially wildland fire use and prescribed fire." DEIS, Vol. I at 157-58. To the extent that "active management" is more limited in IRAs, the Agency has not demonstrated that it is the Roadless Rule—not appropriations, staffing, contracting capacity, cost, terrain, operability, ecological conditions, forest plan direction, market conditions, or other institutional, fiscal, or policy factors—that is responsible for the difference.

In short, the Agency has identified policy preferences and generalized management concerns, but it has not identified or substantiated a sufficiently concrete underlying purpose and need for rescission of the Roadless Rule. Most fundamentally, it has defined its purpose and need in terms of its preferred solution—eliminating a nationwide rule and returning decision-making authority to local officials—thereby excluding reasonable alternatives that could address identified wildfire, forest health, access, and/or community protection needs while retaining meaningful national protections. NEPA does not permit an agency to define the problem so that its preferred outcome becomes the only acceptable solution. *Friends of Southeast's Future*, 153

⁶² Sean P. Healey et al., *Long-Term Forest Health Implications of Roadlessness*. Environmental Research Letters, Volume 15, Number 10; <https://doi.org/10.1088/1748-9326/aba031>.

F.3d at 1066–67; *Citizens Against Burlington*, 938 F.2d at 196; *Westlands*, 376 F.3d at 865–68; *Nat'l Parks & Conservation Ass'n*, 606 F.3d at 1070–71.

B. The Agency Failed to Consider a Reasonable Range of Alternatives.

The Agency considers only three alternatives in the DEIS in detail: (1) the No Action alternative (alternative 1); (2) the Proposed Action (alternative 2); and (3) a Modified Boundaries Roadless Rule (alternative 3). DEIS, Vol. I at 12-13. This limited range of alternatives does not meet the statutory mandate of NEPA.

In drafting an EIS, the responsible agency must consider a “reasonable range of alternatives” to the proposed agency action. 42 U.S.C. § 4332(2)(C)(iii) (emphasis added); *Border Power Plant Working Grp. v. Dep't of Energy*, 260 F. Supp. 2d 997, 1030 (S.D. Cal. 2003) (“[A]n agency must look at every reasonable alternative, with the range dictated by the nature and scope of the proposed action”) (quoting *Idaho Conservation League v. Mumma*, 956 F.2d 1508, 1520 (9th Cir. 1992)). The USDA’s NEPA regulations define this as “a reasonable range of alternatives that are technically and economically feasible, meet the purpose and need for the proposal, and, where applicable, meet the goals of the applicant.” 7 C.F.R. § 1b.11 (a)(42)(2025). The alternatives analysis serves the critical function of identifying “feasible alternatives that could mitigate” the significant environmental effects of the action. *Seven Cnty. Infrastructure Coal.*, 605 U.S. at 172. “Failure to consider reasonable alternatives thwarts the goals of informed decision-making and meaningful public comment before the environmental die is cast.” *California ex rel. Lockyer v. U.S. Dep't of Agric.*, 459 F. Supp. 2d 874, 905 (N.D. Cal. 2006)(citing *Robertson*, 490 U.S. at 349). Failure to consider reasonable alternatives “renders an environmental impact statement inadequate.” See *Nat. Res. Def. Council v. U.S. Forest Serv.*, 421 F.3d 797, 813 (9th Cir. 2005) (quoting *Citizens for a Better Henderson v. Hodel*, 768 F.2d 1051, 1057 (9th Cir. 1985)).

Notably, “[t]he NEPA alternatives requirement must be interpreted less stringently when the proposed agency action has a primary and central purpose to conserve and protect the natural environment, rather than to harm it.” *Kootenai Tribe of Idaho*, 313 F.3d at 1120–21 (three action alternatives sufficient when the policy objective in promulgating the Roadless Rule was to protect the environment). But here, the primary and central purpose of the proposed rescission of the Roadless Rule is not to conserve and protect the natural environment, but to exploit its natural resources, such as through increased timber harvest. *Special Areas; Roadless Area Conservation; National Forest System Lands*, 90 Fed. Reg. 42,179, 42,181 (Aug. 29, 2025) (stating the purpose and need for the Agency’s action, as “examining regulations that pose undue burden on production of the Nation’s timber and identification, development, and use of domestic energy and mineral resources”). The Agency therefore must conduct a more robust alternatives analysis that goes beyond the two action alternatives and one no action alternative considered in the DEIS.

1. The identified alternatives do not meet the purpose and need of the Agency.

As identified throughout these comments, the preferred alternative, alternative 2, does not meet the stated purpose and need of the Agency. For instance, alternative 2 would make a decision at the federal level for all IRAs, which is in conflict with the stated purpose of allowing for more decision-making at the local level. *See* Section III(A).

Alternative 3 also does not meet the stated purpose and need of the Agency. Alternative 3 removes Roadless Rule prohibitions on a portion of IRAs, including 17.9 million acres within half a mile of existing roads and/or within a wildland-urban interface. DEIS, Vol. I at 15. The Agency stated its purpose and need includes “return[ing]land management decision-making for inventoried roadless areas to local Forest Service officials.” DEIS, Vol. I at 10. Alternative 3 does not fulfill this purpose because it draws an arbitrary line around existing roads to determine where IRA protections will and will not apply nationwide, with no involvement of local Forest Service officials in deciding where to draw that line.

2. The Agency fails to analyze other reasonable alternatives.

The States and other commenters identified reasonable alternatives in the Scoping Comments that the Agency should have analyzed in the DEIS. The Agency must analyze those alternatives in a revised DEIS that it circulates for public review and comment. Each of the alternatives suggested would create different impacts to a range of resources that should be provided to the public for review and comment prior to finalizing any EIS. In the alternative, they should be rigorously analyzed in the FEIS.

a. Expanded exceptions alternative.

The States, and many other commenters, proposed that the Agency should analyze an alternative that expands the existing exceptions to the 2001 Roadless Rule to allow for more active management. Scoping Comments at 24, DEIS, Vol. III at 31. The Agency notes that it received suggestions to consider such an alternative but articulates no reasonable basis for refusing to consider this alternative. DEIS, Vol. I at 27. The Agency merely notes that alternative 3 is being considered, and it “takes a different approach” to the proposed exception expansion alternative. DEIS, Vol. I at 28. This is a specious argument because an alternative expanding the use of exceptions is “significantly distinguishable” from alternative 3, which would instead remove roadless rule prohibitions and IRA designations from 31.7 million acres, DEIS, Vol. I at 15. *See New Mexico ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 711 (10th Cir. 2009) (“[A]gencies are excused from analyzing alternatives that are not “significantly distinguishable” from those already analyzed.”).

An expansion of exceptions to the Roadless Rule would fit the purported purpose and need of the action as it would allow local Forest Service officials to make active management decisions “to respond to changing and localized conditions, such as increasing wildfire risk, the spread of insect and disease infestations, and the need for community protection in the wildland-

urban interface.” DEIS, Vol. I at 10. While exceptions already exist and have been used since the advent of the Roadless Rule,⁶³ to the extent more flexibility is needed an expansion of those exceptions would grant more local flexibility to respond to agency and public needs.

b. Streamline the administration of exceptions.

The Agency asserts that the exceptions currently allowed under the Roadless Rule are inadequate to meet the Agency’s needs. DEIS, Vol. I at 28. Notwithstanding the fact that the Agency fails to support this assertion, there are alternatives that can meet these needs without the wholesale elimination of protections from tens of millions of acres of undisturbed forests. For instance, the Agency could streamline documentation requirements for securing an exception. The Agency could also establish an expedited review process for specified treatments to manage fire hazards needed on a time-limited basis. The Agency could also provide for flexibility in administering exceptions on a regional basis to address a need across multiple forests. It could also provide more flexibility for specific treatments that are commonly used by the Agency.

c. Previously analyzed alternatives.

The Agency considered additional alternatives in the NEPA review it conducted when promulgating the Roadless Rule. The Agency identified multiple alternatives at that time, including various combinations of prohibitions, procedures, and exemptions. *See* 2000 FEIS, Vol. 1 at 2-1. The Agency should have evaluated those alternatives in this DEIS.

d. Amendment of local forest plans.

Another alternative the Agency should have considered is a revision to the Roadless Rule that would allow for modifications to roadless restrictions to be made through local forest plan amendments. This approach would allow tailoring to the unique needs of each forest and ensure the decision is made by local Forest Service officials. This would also ensure the smooth rollout of any changes where a forest plan incorporates the Roadless Rule by reference or assumes the existence of the Roadless Rule. Forest plans could be updated to explicitly make changes to roadless area protections.

The Agency must analyze a true range of reasonable alternatives, including those specified above, in a revised DEIS subject to further public review and comment. In the alternative, the Agency should rigorously analyze each of these alternatives in the FEIS.

⁶³ As the Agency notes, these exceptions have been used to build 60 miles of roads in IRAs. DEIS, Vol. I at 45.

C. The Agency Fails to Adequately Consider All Reasonably Foreseeable Significant Environmental Impacts at an Appropriate Scale of Assessment.

To fulfill NEPA's "hard look" requirement, an agency must consider all foreseeable direct, indirect, and cumulative impacts of its proposed action. *See N. Alaska Env't Ctr. v. Kempthorne*, 457 F.3d 969, 975 (9th Cir. 2006); *Ctr. for Biological Diversity v. Salazar*, 695 F.3d 893, 916–17 (9th Cir. 2012). An agency must provide sufficient evidence and analysis to support its conclusions. As the Ninth Circuit has stated, "general statements about 'possible effects' and 'some risk' do not constitute a 'hard look' absent a justification regarding why more definitive information could not be provided." *Blue Mountains Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1213 (9th Cir. 1998).

Here, the Agency fails to take the requisite "hard look" at the environmental impacts either of the proposed rescission of the Roadless Rule, its preferred alternative (alternative 2), or of alternative 3, which would lift Roadless Rule protections from 31.7 million acres, or seventy-one percent of area currently protected.⁶⁴ The Agency fails to analyze impacts at the appropriate scale in the DEIS and unlawfully defers much of its analysis to future site-specific projects. The Agency also fails to consider how the different alternatives will impact herbicide use in the IRAs, or the resulting environmental impacts of a likely increase in herbicide use.⁶⁵ For those environmental impacts that the Agency does consider, it discounts them and relies on faulty assumptions. For example, in assessing various environmental impacts of the alternatives, the Agency relies on its unsupported conclusion, as discussed above in Section III(C) and below in Section IV(C)(2), that under alternatives 2 and 3 there will be a reduction in wildfires. *E.g.* DEIS, Vol. I at 108, 128, 154, 155.

1. The DEIS unlawfully defers much of its analysis to future site-specific project decisions and fails to analyze impacts at the appropriate scale.

In the DEIS, the Agency provides only a broad overview of potential environmental impacts that are likely to result if it finalizes the Proposed Rule. Moreover, the Agency repeatedly defers its analysis to future project specific decisions and assumes they will be able to avoid or minimize impacts through the future application of and compliance with laws, Forest Service policies and forest plans, best management practices, and/or future project design features for projects that are expected to occur.⁶⁶ Examples of this reliance within the DEIS are

⁶⁴ This comment letter focuses primarily on the failures of the Agency's analysis of its preferred alternative, alternative 2, but the Agency's analysis of alternative 3 is equally flawed. The Agency provides an even more cursory analysis of this alternative, making generalized statements such as "[a]lternative 3 has similar effects to alternative 2 but affects fewer acres." DEIS, Vol. I at 25-26; *see also*, *e.g.* DEIS, Vol. I at 54, 107-08, 116, 124, 129, 156.

⁶⁵ The Agency also failed to consider the impacts of the alternatives on climate change, as discussed below in Section IV(E)(1).

⁶⁶ The Agency also fails to consider that in recent years the Forest Service has adopted several new categorical exclusions (CEs) that it likely will rely on to avoid NEPA reviews for future projects in IRAs under alternatives 2 and 3. U.S. Forest Service, Environmental Planning: Categorical Exclusion

provided below in Section IV(D). But consideration of impacts may not be deferred, as that would violate NEPA's mandate that agencies confront the full extent of environmental impacts from a proposed action at the earliest reasonable time. *Robertson*, 490 U.S. at 349. As the Ninth Circuit has frequently stated, it is "not appropriate to defer consideration" of impacts to a future date "when meaningful consideration can be given now." *Kern v. U.S. Bureau of Land Mgmt.*, 284 F.3d 1062, 1075 (9th Cir. 2002); *see also id.* at 1072 ("NEPA is not designed to postpone analysis of an environmental consequence to the last possible moment."). Instead, the Agency must analyze the environmental consequences of a broadly applicable rule or policy when such impacts are "readily apparent at the time the EIS was prepared." *Id.* at 1073.

There are reasonably foreseeable impacts for future projects and activities that can be analyzed now. The Agency acknowledges that if the Roadless Rule is rescinded, IRAs will revert to the status designated in each forest plan that applies to each National Forest. DEIS, Vol. I at 15. The Agency recognizes that these plans are not uniform, and "[t]here is a great variation in how existing land management plans address inventoried roadless areas and the 2001 Roadless Rule." DEIS, Vol. I at 8. This means that the level of potential impacts may vary greatly for each forest because they likely differ in the types of activities they allow or in the protection they provide for IRAs. Some plans that were created or amended when the Roadless Rule was in place may not have included specific direction for land currently designated as IRAs, instead relying on the assumption that the Roadless Rule would control the activities allowed in those areas or explicitly incorporating Roadless Rule protections into their forest plans. *E.g.*, DEIS, Vol. I, Appendix 1 at 4 (quoting Colville National Forest Plan at 73) ("Road construction and reconstruction activities will comply with requirements of the Roadless Area Rule in effect at the time project-level decisions are made"). In addition, forest plans may provide for desired conditions, suitability, guidelines, and other factors that are specific to IRAs, *e.g.*, DEIS, Vol. I, Appendix 1 at 3-4, but the proposal would remove IRA designations from those areas, DEIS, Vol. I at 15, making it unclear whether any of those standards would continue to apply. Those plans, in relying on the Roadless Rule and designated IRAs for protection of resource values on their respective forests, will not have adequately evaluated and provided for protection of those values in the absence of the Roadless Rule and the designated IRAs. This could mean that rescission would have immediate direct effects for those particular management areas.

The Agency claims that future decisions on activities that may occur under the three alternatives "are greatly influenced by factors beyond the proposed rulemaking such as local decision-making through land management plans and projects." DEIS, Vol. I at 32-33. But those

Adoption from Other Agencies, <https://www.fs.usda.gov/about-agency/regulations-policies/nepa>. In the FEIS, the Agency should consider how these CEs may limit its future project specific reviews, including its recent adoption of eighteen CEs that took effect on September 25, 2026, which include CEs that will exempt certain salvage logging and other logging projects from NEPA review. U.S. Forest Service, Adoption of Categorical Exclusions Under Section 109 of the National Environmental Policy Act, 42 U.S.C. 4336c, <https://www.fs.usda.gov/sites/default/files/notice-to-adopt-ces-sept-2026.pdf>.

forest plans already exist, and the Agency has authority and control over those plans as well as over potential future projects in the IRAs. The Agency repeatedly relies on future project compliance with those forest plans to minimize impacts, without discussing how the plans would minimize these environmental impacts, and without analyzing potential impacts at the forest level. Instead, the Agency looks only broadly at the overall potential impacts across nearly forty-five million acres, without taking into account local conditions and management plans.

The DEIS explains that “[c]urrent land management-plans often include plan direction and components that identify where timber management and road construction may or may not be allowed.” DEIS, Vol. I at 30; *see also, e.g., id.* at 158 (“Although the area where road construction, road reconstruction, and timber harvest would increase, these activities would be likely only where existing land management plans allow.”). But rather than using this information to consider potential forest-level impacts under those plans, the DEIS focuses on aggregate data on total nationwide acreage, or acreage at the level of Forest Service regions, where certain activities may be allowed under current forest plans should the Roadless Rule be rescinded. *E.g.*, DEIS, Vol. I at 46, tbl. 8 (road construction); DEIS, Vol. I, app. 1 at 7-9 (potential timber harvest operability). The Agency could easily examine each of the existing management plans, as well as baseline environmental information in each forest, and provide an assessment of the changes that would occur upon rescission by applying those management plans’ direction in IRAs and closely examining what will be reasonably likely to occur in those areas. This would include reasonably foreseeable projects and activities that are customarily proposed in each National Forest in non-IRA areas, and those proposals that were previously withdrawn as a result of the Roadless Rule.

The Agency also acknowledges that, when considering the current environmental baseline, there are differences in Forest Service regions and in particular forests for various factors such as soil conditions and landslide risks, DEIS, Vol. I at 113-14; water quality, DEIS, Vol. I at 120; air quality, DEIS, Vol. I at 126-27; landscape connectivity, DEIS, Vol. I at 134; forest vegetation types and patch sizes and distribution, DEIS, Vol. I at 135; reliance of local communities on IRAs for drinking water, DEIS, Vol. I at 121-22; potential for logging, DEIS, Vol. I at 76-77; and wildfire risk, DEIS, Vol. I at 92. For example, the Agency discusses that the Southern, Eastern, and Pacific Northwest regions have more watersheds that are rated as impaired or poor for water quality, DEIS, Vol. I at 120; that the Pacific Southwest region has poor air quality, DEIS, Vol. I at 126-27; and the Intermountain, Northern, Pacific Southwest, and Southwestern regions contain the most acreage that is likely operable for logging, DEIS, Vol. I at 76. Yet the Agency fails to even attempt to consider all of these factors together, along with application of forest plans, to determine the potential for significant environmental impacts in particular forests or regions should the Roadless Rule be rescinded. Rather, the Agency focuses primarily on overall potential nationwide impacts, without taking local variability into account.

2. Wildfire.

Because the Agency affirmatively relies on purported wildfire benefits to justify rescission of the Roadless Rule, NEPA requires the Agency to analyze all reasonably foreseeable environmental consequences of the rescission, including the altered regulatory regime it would establish. The Agency cannot rely on future road construction, access, vegetation management, and fuels treatments as reasonably foreseeable benefits of rescission while treating the environmental consequences of those activities as too speculative to analyze. *See Ctr. for Biological Diversity v. Nat'l Highway Traffic Safety Admin.*, 538 F.3d 1172, 1214-17 (9th Cir. 2008).

As discussed above in Section III(C), the Agency's one-sided treatment of those activities is irrational, in part because the Agency failed to adequately analyze the reasonably foreseeable increase in ignition risk associated with increased roads and human access. The Proposed Rule would eliminate nationwide restrictions on road construction and reconstruction across approximately forty-five million acres of IRAs. 91 Fed. Reg. at 53,827-30. Roads may facilitate fire suppression and vegetation management, but they also increase access and opportunities for human-caused ignitions, fragment landscapes, affect vegetation and fuel conditions, and create long-term access patterns that persist long after an individual treatment project is completed. The Agency itself recognizes that human-caused ignition density is substantially greater on lands outside IRAs and that ignition density increases with proximity to roads. *See* DEIS, Vol. I at 85-90. Numerous studies, including the recently published scientific paper from Aplet et al. have independently documented the positive relationship between roads and ignition density across USFS lands.⁶⁷ Nevertheless, the Forest Service wholly failed to evaluate whether increased treatment and suppression could offset the increased ignition risk.

The Agency also failed to identify with sufficient specificity the management activities that rescission would reasonably facilitate. If those activities are sufficiently foreseeable to constitute a principal benefit of rescission, the Agency must disclose their likely types, approximate acreages, geographic distribution, ecological settings, road requirements, duration, maintenance needs, and expected effectiveness. It need not predict every future project, but it must analyze reasonably foreseeable patterns of environmental change resulting from the regulatory regime it proposes. *See Ctr. For Biological Diversity*, 538 F.3d at 1214-17.

The Agency cannot assume treatment effectiveness merely because an activity is characterized as active management. As the Agency and the independent researchers recognize, effectiveness depends on forest type, fire regime, treatment design and intensity, spatial arrangement, maintenance, vegetation response, subsequent weather and fire behavior, and the location of treatment relative to the resources it is intended to protect.⁶⁸ The Agency therefore must evaluate whether the treatments reasonably expected to result from rescission would occur

⁶⁷ *See generally* Aplet et al., *supra* note 4.

⁶⁸ *See, e.g.*, Prichard et al., *supra* note 8; DEIS, Vol. I at 91.

at scale and locations capable of affecting the wildfire risks invoked to justify it and whether their benefits would persist under reasonably foreseeable future climate and fire-weather conditions.

Similarly, the Agency failed to match its analytical scale to the wildfire mechanisms at issue. The Proposed Rule affects approximately forty-five million acres across highly diverse regions, ecosystems, forest types, climates, elevations, fire regimes, and patterns of human development. 91 Fed. Reg. at 53,827-30; DEIS, Vol. I at 91. The Agency recognizes that wildfire risk varies substantially across the IRA network and that understanding that variation is “fundamental” to evaluating the alternatives. DEIS, Vol. I at 91. Yet the Agency relies heavily on national and regional aggregate indicators to assess wildfire risk and the need for certain treatments. DEIS, Vol. I at 90-94.

The wildfire mechanisms at issue operate at different scales. Road proximity and human access may affect ignition risk at very fine spatial scales; fuels and treatments effects operate at stand and landscape scale; fire behavior depends on broader fireshed and climatic conditions, and smoke, watershed, habitat, and post-fire effects can extend beyond individual treatment areas.⁶⁹ The Agency must select and explain analytical scales appropriate to different processes. *Idaho Sporting Cong.*, 305 F.3d at 973 (agency’s “choice of analysis scale must represent a reasoned decision and cannot be arbitrary”); see *WildEarth Guardians v. United States Dep’t of Agric. Animal & Plant Health Inspection Serv. Wildlife Servs.*, 135 F.4th 717, 730 (9th Cir. 2025); *Sierra Club v. Bosworth*, 510 F.3d 1016, 1030 (9th Cir. 2007). At minimum, the Agency must analyze regional variations in the relationships between roads and fire ignitions; differences between human-dominated and lightning-dominated fire regimes; the current distances between affected IRAs and roads; the extent to which reasonably foreseeable new roads could alter road proximity and access; and whether roads constructed for treatment access would remain available for broader public use.

The Agency’s temporal analysis is similarly inadequate. Rescission of the Roadless Rule would immediately eliminate nationwide regulatory protections, but its environmental consequences could unfold over decades. For example, roads create immediate access changes but access, and resulting environmental consequences, persist for years—even decades—after the roads are no longer necessary to fulfill their intended purpose, and fuels treatments may provide temporary benefits requiring repeated maintenance. See DEIS, Vol. I at 100 (stating that “[l]ong-term effectiveness of fuel treatments requires maintenance; single entries lose effectiveness over decades”). The Agency must therefore analyze the consequences over time periods sufficient to capture these distinct pathways, including how quickly new roads and treatments are reasonably expected to occur; whether roads immediately increase human access; how long new roads remain in use; whether access and ignition exposure accumulate over time; how long treatment benefits persist; whether repeated treatment is necessary; and whether projected changes in climate and fire weather alter treatment effectiveness. Again, the Agency

⁶⁹ Aplet et al., *supra* note 4.

need not predict every future project. But it must analyze reasonably foreseeable patterns of environmental change resulting from the management regime it proposes to establish. *See Ctr. for Biological Diversity*, 538 F.3d at 1214–17.

These deficiencies in the DEIS are not harmless. These omissions prevent informed public comment and informed agency decision-making on significant environmental consequences concerning a central rationale for the Proposed Rule. *N. Plains Res. Council, Inc. v. Surface Transp. Bd.*, 668 F.3d 1067, 1085 (9th Cir. 2011) (stating that NEPA aims to “guarantee relevant information is available to the public”); *see WildEarth Guardians v. Bucknall*, 756 F. Supp. 3d 1017, 1035 (D. Mont. 2024) (finding that “[b]ecause critical data was not available during the NEPA process and was not available to the public for comment, ... the NEPA process could not serve its larger informational role, and the public was deprived of their opportunity to play a role in the decision-making process”) (cleaned up).

The public cannot meaningfully evaluate the Agency’s wildfire rationale without, at a minimum, access to information identifying what management activities rescission would reasonably be expected to facilitate; where and at what scale those activities would be likely to occur; how much new road construction or reconstruction would be reasonably foreseeable; how increased access could affect human-caused ignition risk; whether increased ignition risk could offset asserted treatment and suppression benefits; how wildfire effects would vary among the major regions and fire regimes in the potentially affected IRAs; how and why the Agency’s current conclusions differ from its prior findings, and specifically what scientific evidence supports its conclusion that a nationwide rescission will produce a net reduction in wildfire risk.

NEPA requires consideration of all reasonably foreseeable impacts, not just a subset of impacts that supports an agency’s predetermined conclusion. Accordingly, the Agency must take the required “hard look” at the full range of scientifically supported and reasonably foreseeable wildfire consequences of rescinding the Roadless Rule. Before issuing a final EIS (FEIS) or final rule, the Agency must therefore revise and supplement its wildfire analysis and provide an additional opportunity for public comment. Specifically, the Agency must do the following:

- Sufficiently distinguish wildfire risk from ignition probability, treatment needs, treatment feasibility, access requirements, and treatment effectiveness.
- Provide reasonably specific estimates of the road construction, access changes, and vegetation-management activities likely to result from rescission.
- Analyze whether the asserted treatment benefits are likely to occur at geographic and temporal scales sufficient to affect the wildfire risks invoked to justify rescission.
- Evaluate treatment effectiveness under current and reasonably foreseeable future climate and fire-weather conditions, including the limitations identified in current peer-reviewed literature.

- Analyze regional variation among affected fire regimes, ecosystems, and patterns of human access rather than relying principally on national aggregate indicators.
- Analyze effects over an appropriate temporal horizon, including the long-term persistence and consequences of roads and access, the duration and maintenance requirements of fuels treatments, and changing future fire-weather conditions.
- Adequately address all material scientific evidence, including relevant scientific literature submitted with scoping comments and during the current comment period.
- Reconcile the Agency's current analysis and conclusions with its prior findings concerning roads, human-caused ignitions, escaped fires, and the limited effect of road-construction restrictions on suppression capability.

3. Herbicides.

As discussed above, the Agency acknowledges that alternatives 2 and 3 are expected to result in an increase in road building and reconstruction, logging, prescribed burns, and other forest management activities in IRAs. Yet the Agency fails to consider how the expected increases in these activities are likely to result in an increase in herbicide use in those areas. Moreover, the Agency fails to analyze the foreseeable environmental effects of that likely increase in herbicide use in the IRAs.

The DEIS contains only a few mentions of herbicides, including a reference to “herbicide treatments” as one of the tools that may be used to manage the introduction of non-native invasive plants that is expected to result from road building, logging, and other ground-disturbing activities likely to occur if the Roadless Rule is rescinded. DEIS, Vol. I at 106. Despite acknowledging that the Agency uses herbicides as an invasive species management tool and relies on this tool as one of the ways it plans to minimize the increase in invasive species in IRAs if roadless protections are removed, it does not analyze the impacts of increased herbicide use on forest ecosystems and on plants and wildlife. Instead, only a passing mention can be found in the section addressing biodiversity, where the DEIS acknowledges “the use of herbicides in eradication or control efforts [of non-native invasive plant species] can have unintended adverse effects to populations of other terrestrial and aquatic species.” DEIS, Vol. I at 142.

The DEIS also fails to discuss the Forest Service's use of herbicides as a management tool. Herbicides are often used by the Forest Service and other entities to manage forests after fires and after logging, in order to decrease brush and to support the growth of planted trees.⁷⁰

⁷⁰ See e.g. Patrick R. Durkin, Syracuse Env't Rsch. Assocs., SERA TR-052-22-03b, *Glyphosate: Human Health and Ecological Risk Assessment* xviii, 16 (2011) (prepared for USDA Forest Service, Southern Region), [URL] (“Glyphosate is a herbicide used in Forest Service programs primarily in conifer release, site preparations, and noxious weed control”); Nate Halverson, *We Are Bombarding America's Forests with Roundup*, Mother Jones (May–June 2026), <https://www.motherjones.com/politics/2026/04/roundup-glyphosate-spraying-forests-monsanto-science->

One study estimated that more than twelve million acres of wildland in the U.S. were sprayed with about 400,000 pounds of herbicides in 2010, with glyphosate being the most commonly used active ingredient.⁷¹ A recent investigation by Mother Jones found that this usage appears to be increasing, as the Forest Service is spraying large quantities of glyphosate on National Forests burned by forest fires in California and other states.⁷² Herbicides may also be used after logging.⁷³ In California alone, spraying records show that 266,000 pounds of glyphosate were sprayed in forests in 2023, five times the amount sprayed twenty years ago.⁷⁴ Glyphosate is not just used to manage non-native invasive plants, but may also be used to kill native shrubs and other plants so they don't compete with the conifer species used to reforest the areas.⁷⁵ Because glyphosate is not selective, it kills native as well as non-native plant species in the area sprayed, as well as in adjacent areas due to drift. It can also enter aquatic environments through runoff that is likely in areas disturbed by fires or logging.

The DEIS fails to address these uses of herbicides, even though they are likely to increase in IRAs under alternatives 2 or 3 because the Forest Service uses herbicides as a management tool both post-fire and in conjunction with reforestation efforts after logging. Increased access to these areas is likely to result in more active management of IRAs that is likely to include herbicide use. In addition, as discussed below in Section IV(C)(4), alternatives 2 and 3 are expected to result in an increased risk of invasive plant species introduction and spread, which may be managed with herbicides.

Just as concerning, the DEIS does not address how these increased uses of herbicides are expected to impact plants and wildlife. The only apparent recognition in the DEIS of these types of herbicide applications and their potential for impacts comes in a brief assessment of potential impacts of silvicultural practices to bees, where the Agency admits that “the combination of herbicide application and plantings can negatively impact rare [bee] species.” DEIS, Vol. I at 150. Otherwise, the DEIS unlawfully fails to consider any of the numerous significant impacts that glyphosate and other herbicides would have on terrestrial and aquatic plants and wildlife, including rare, threatened, or endangered species.⁷⁶

retraction-cancer-health-concerns-maha-trump-executive-order-supreme-court-bayer-lawsuits/; Karl V. Miller & James H. Miller, *Forestry Herbicide Influences on Biodiversity and Wildlife Habitat in Southern Forests*, 32 Wildlife Soc'y Bull. 1049 (2004): 1049-1060.

⁷¹ Victoria Wagner et al., *Herbicide Usage for Invasive Non-Native Plant Management in Wildland Areas of North America*, 54 J. Applied Ecology 198, 200 (2017).

⁷² Halverson, *supra* note 70.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ Halverson, *supra* note 70; *see also* Durkin, *supra* note 73 at 16 (“the major uses of glyphosate in Forest Service programs involve conifer release (58.5%), site preparation (19.7 %), noxious weed control (9.9%), and hardwood release or release programs not otherwise specified (3.6%).”).

⁷⁶ *See, e.g.*, U.S. Env't Prot. Agency, Final National Level Listed Species Biological Evaluation for Glyphosate (2021), <https://www.epa.gov/endangered-species/final-national-level-listed-species-biological-evaluation-glyphosate> (finding glyphosate is likely to adversely affect ninety-three percent of

The Agency's failure to consider the likely increases in the use of herbicides in IRAs under alternatives 2 and 3, and the foreseeable impacts of that increased herbicide use on the environment, constitutes a clear failure to take a "hard look" at foreseeable impacts that is required under NEPA.

4. Non-native invasive plant species.

The DEIS provides only a cursory analysis of the potential impact of the three alternatives on non-native invasive species, failing to take the requisite "hard look" at their potential impact and discounting any acknowledged effects. DEIS, Vol. I at 106-08. The Agency acknowledges that ground-disturbing activities and roads likely to result from implementation of alternatives 2 and 3 are likely to lead to the introduction and spread of non-native invasive plants. *Id.* at 106-07. However, the Agency ultimately minimizes those likely impacts by relying on compliance with applicable laws, future project design features, and management requirements to mitigate those risks, concluding that "the effects from activities resulting in the implementation of alternatives 2 and 3 are not expected to greatly increase." DEIS, Vol. I at 108. In coming to this conclusion, the Agency also relies on the assumption that the potential for wildfire would be reduced under alternatives 2 and 3, which would limit the creation of large openings for the establishment of invasive plants. *Id.* But as explained above in Sections III(C) and IV(C)(2), this is a faulty assumption, and "an agency may not rely on incorrect assumptions or data" in preparing an EIS. *Native Ecosystems Council*, 418 F.3d at 964. Further, the Agency does not explain why it believes management activities such as logging or prescribed burns that also create openings would not similarly result in the establishment and spread of invasive plant species.

In its analysis, the Agency determined that non-native invasive plant species cover less than one percent of the potentially affected IRAs, or approximately 309,000 acres under alternative 2, or 270,787 acres under alternative 3. DEIS, Vol. I at 106. However, the Agency did not make a similar determination of the acreage or percentage of non-native invasive plant species that cover lands in National Forests that are not designated IRAs, even though it appears to have access to such data. An understanding of the acreage or percentage of invasive plant species present in these other areas would provide a good opportunity for a comparison, and one way to assess the potential for impacts to levels of invasion from the removal of roadless protections, especially as activities occurring in these areas are also required to comply with "applicable laws and implementation of the forest plan's standard and guidelines for invasives species," DEIS, Vol. I at 108. In fact, it appears that the level of non-native invasive plant species cover in non-IRA National Forest lands is likely to be much higher than it is in IRAs. A

threatened and endangered species); Hayley Patterson et al., *Environmental and Socio-Cultural Impacts of Glyphosate-Based Herbicides: Perspectives from Indigenous Knowledge and Western Science*, 4 *Frontiers Conservation Sci.* 1186399 (2023); Edward A. Straw et al., Roundup Causes High Levels of Mortality Following Contact Exposure in Bumble Bees, 58 *J. Applied Ecology* 1167 (2021); Durkin, *supra* note 70, at 114–218; Rick A. Relyea, *The Lethal Impact of Roundup on Aquatic Terrestrial Amphibians*, 15 *Ecological Applications* 1118 (2005)..

study authored by Forest Service staff earlier this year used data from Nationwide Forest Inventory plots to estimate that nearly 250 million acres, or thirty-nine percent of the area studied, have been invaded by understory non-native plants nationally.⁷⁷ The Agency's failure to consider this information, or other relevant data, in analyzing the impacts of the three alternatives is unlawful: NEPA requires agencies to "make use of reliable data and resources in carrying out" their responsibilities under NEPA. 42 U.S.C. § 4332(2)(E).

5. Soil, water, and air resources.

The Agency also fails to take a "hard look" at the impact of the alternatives on soil, water, and air resources. As discussed above, the Agency unlawfully defers much of its analysis related to these impacts to future site-specific projects and fails to consider impacts at the forest level, which would take into account the differences in how individual forest plans apply in IRAs. For example, the DEIS reaches no real conclusion about how the different alternatives would impact soil and water resources, instead finding that "[a]lternatives 2 and 3 would have variable effects on soil and water resources across Forest Service Regions and individual national forests depending on the direction in existing land management plans." DEIS, Vol. I at 129-30. Rather than take a closer look to assess the likely effects on these resources at the regional and/or individual forest level, the Agency simply fails to come to any real conclusion about potential impacts.

Although the DEIS acknowledges potential impacts to soils, such as soil compaction and displacement, soil loss, and sedimentation, it minimizes those potential impacts by relying on the future assumed compliance of activities with best management practices (BMPs). DEIS, Vol. I at 109-16. For example, the Agency says BMPs "may significantly reduce sedimentation," and that although they "do not completely eliminate water quality impacts, they do reduce impacts to acceptable levels." *Id.* at 111; *see also id.* at 115 ("Impacts to soil resources ... would be reduced using mandatory National best management practices and local land management compliance.").

Similarly, for water and air resources, the DEIS considers numerous potential impacts of the alternatives, DEIS, Vol. I at 116-30, but ultimately discounts many of those impacts by relying on the assumption that BMPs will be implemented for future activities in roadless areas. *E.g.*, DEIS, Vol. I at 122 ("Road construction and native surface forest roads are the largest source of sediment related to timber harvest operations, and sediment delivered to surface waters is a major source of water quality degradation ... However, using Best Management Practices during road maintenance and construction can reduce these impacts to levels congruent with the Clean Water Act.").

The DEIS explains that one of the potential beneficial impacts under alternatives 2 and 3

⁷⁷ Kevin M. Potter et al., *United States Forests Are Increasingly Invaded by Problematic Non-Native Plants*, 599 *Forest Ecology & Mgmt.* 123281 (2026), <https://doi.org/10.1016/j.foreco.2025.123281>.

will be the ability to repair and reconstruct existing roads in IRAs, which can reduce water quality impacts and improve aquatic habitat quality. DEIS, Vol. I at 153 (“Roads in need of repair deteriorate and discharge sediment into streams that could contaminate water, block stream flow, and harm aquatic fish species. Road reconstruction could improve water quality, restore aquatic organism passages, and maintain forest access”). However, the DEIS fails to reconcile how the Agency expects to have funds available to make these repairs considering that it already has a multibillion-dollar backlog of road maintenance and repairs needed throughout National Forests, DEIS, Vol. I at 43-44. Moreover, this type of road repair is already an allowed exception to the Roadless Rule: “The 2001 Roadless Rule provided that the responsible official may grant certain limited exceptions to the road construction prohibitions, including ... realignment of roads to prevent resource damage or address safety hazards (36 CFR 294.12(b) (2001)).” DEIS, Vol. I at 6.

In considering the impacts of the alternatives on air quality, the DEIS relies on an assumption that opening roadless areas to road building and logging will result in a reduction in the amount of wildfire in these areas in the long term, thus reducing the impact of wildfire emissions on air quality. However, the DEIS fails to properly consider the likelihood that an increase in roads will result in more fires being ignited in IRAs, as discussed further above in Sections III(C) and IV(C)(2).

The DEIS claims that greater access to IRAs will allow for more expanded treatment of fuels removal, and that although this “would increase the frequency of short-term managed smoke events” it would “reduce risk to wildfire over the longer-term.” DEIS, Vol. I at 128. Although the Agency does acknowledge that “[g]reater access leads to a higher potential for fire ignitions from recreational activities (campfires, vehicles) and forest management (vehicles, equipment),” it appears to discount those impacts by relying on the idea that “[g]reater access also allows for faster response to wildfires, resulting in smaller burned areas and shorter duration smoke events.” *Id.* And the Agency finds that “[t]he net effect of the alternatives would be more frequent short-duration smoke events from prescribed fire and fuels treatment but greater air-quality resilience due to reduced risk of catastrophic wildfire” without any real balancing of the effects; instead, it states that a “detailed analysis of the potential net result is not possible at this time.” *Id.*

In coming to the conclusion that under alternatives 2 and 3 short-duration smoke events would increase in the near-term but air quality would improve in the long-term due to increased fuels removal, the Agency also relies heavily on an assumption, under either of these alternatives, that local forests will conduct fire prevention activities. However, just as the Proposed Rule, if finalized, would not “compel or authorize site-specific ground disturbing activities,” DEIS, Vol. I at 20, it would not compel the Agency to conduct fire prevention and management activities. Moreover, the Agency already can carry out these types of activities under exceptions to the Roadless Rule. In fact, the Agency recognizes that its “records show that a lack of roads has not prevented fire prevention or protection measures, especially wildland fire

use and prescribed fire.” DEIS, Vol. I at 157.

The Agency ultimately concludes that the potential for emissions of air pollutants from wildland fire will be lower under alternatives 2 and 3 than under the no-action alternative. DEIS, Vol. I at 129. Although it also finds that the potential for air emissions from all other factors considered will be greater under alternatives 2 and 3, the Agency ultimately concludes, without analysis or explanation, that those emissions associated with prescribed fire, mineral development, road use and construction, and timber harvest and removal are all outweighed by the reduction in emissions of air pollutants from wildfires that it believes will occur under alternatives 2 and 3. *Id.* at 129-30. The Agency’s failure to provide a reasoned basis for this conclusion is arbitrary and capricious and violates NEPA and the APA. This failure also deprives the public of an opportunity to consider the relevant information that went into the Agency’s decision-making process, undermining one of the fundamental purposes of NEPA. *See Robertson*, 490 U.S. at 349-50.

6. Biodiversity.

The Agency’s analysis of the alternatives’ impacts on biodiversity is flawed in ways similar to its analysis of impacts on non-native invasive plant species, soil, water, and air resources. The Agency again relies repeatedly on the future application of laws, regulations, policy, forest plans, and project design features to minimize potential impacts of the alternatives on biodiversity. *E.g.*, DEIS, Vol. I at 131, 141, 146, 150, 151, 153, 158.

The DEIS claims that potential benefits resulting from alternatives 2 and 3 will include “[e]nhanced access for some plant and wildlife management activities,” “[e]asier access for habitat restoration and enhancement for some species,” the “[f]acilitation of movement and dispersal for some aquatic species,” and “[i]mproved aquatic habitat quality” through road reconstruction or realignment. DEIS, Vol. I at 153. But these types of activities are generally already allowable through exceptions to the Roadless Rule. In fact, the Agency acknowledges that most of the exceptions that have been used “were related to maintaining and restoring ecosystem characteristics,” and some of those projects “approved tree cutting for the explicit purpose of ‘improving threatened, endangered, or sensitive species habitat’”. DEIS, Vol. I at 136.⁷⁸ The Agency does not explain why it considers the Roadless Rule’s exceptions insufficient to provide the benefits it claims will result from alternatives 2 and 3.

While the Biodiversity section attempts to provide a lot of detail regarding potential impacts by listing numerous examples of types of potential impacts of the alternatives to certain specific species or species groups, it ultimately fails to take the requisite “hard look” because it does not look at their combined impacts and ultimately does not explain how or if it takes into account the variability in those potential impacts for different species in reaching its ultimate conclusion. And the Agency further fails to fully acknowledge the many beneficial impacts that

⁷⁸ Additionally, the Agency’s “records show that a lack of roads has not prevented fire prevention or protection measures, especially wildland fire use and prescribed fire.” DEIS, Vol I at 157.

protections of the Roadless Rule have provided for biodiversity in IRAs and beyond.⁷⁹ The DEIS concludes generally that alternatives 2 and 3 will have “potential adverse impacts to biodiversity from increasing road construction, road reconstruction, and timber harvest in potentially affected inventoried roadless areas[,] generally includ[ing] habitat loss and degradation, habitat fragmentation and loss of connectivity, barriers to movements, dispersal, and migration, human disturbance and interactions.” DEIS, Vol. I at 158. But the Agency then qualifies this statement by saying that these road and timber harvest activities “would be most likely to occur where it is allowed by land management plans and where ‘operable’.” *Id.* Yet the Agency fails to then take an additional step to further to assess the potential impacts to biodiversity in individual forests by looking at the individual forest management plans and operability, along with what it knows about species that utilize those specific forests and how they may be impacted by the rescission of the Roadless Rule.

In addition, by taking such a broad view, the Agency is unable to determine the true potential impacts of the alternatives because species may react differently to different activities. The Agency acknowledges that “[a] road- or timber harvest-related beneficial effect for one species, may, in fact, represent an adverse effect for another.” DEIS, Vol. I at 150. The DEIS does not appear to take full account of those differences.

The Agency again relies on the flawed assumption that adoption of the Proposed Rule will result in less wildfire in IRAs, which it claims in turn will benefit biodiversity. For example, the DEIS explains that one of the potential beneficial effects of alternatives 2 and 3 for terrestrial and aquatic plant species is “[i]mproved access to manage fuel loads to reduce the likelihood of stand-replacing wildfires and mortality to trees in old growth forests and other forested ecosystems which are not adapted to fire.” DEIS, Vol. I at 155; *see also* DEIS, Vol. I at 154 (a beneficial effect to aquatic animal species and habitats is “[i]ncreased or improved access to reduce hazardous fuels in forested riparian areas which could cause wildfires resulting in the loss of trees and other overhanging vegetation along waterbodies. Vegetation in forested riparian areas provides cover habitat for aquatic animal species and improves bank stability.”). But for the reasons explained above in Sections III(C) and IV(C)(2), the Agency cannot assume that under alternatives 2 and 3 local forest managers will increase their fuels management activities, nor that the benefits of any increase in fuels management would outweigh the increased risk of wildfires due to the increased risk of fire ignitions expected from the construction and reconstruction of roads and the increase in human activities resulting from increased access.

7. Recreation and scenery.

The DEIS grossly underestimates the impacts to recreation and scenery under alternative 2. As we explained in the Scoping Comments, outdoor recreation is an important segment of the U.S. economy, generating \$1.2 trillion in economic output in 2023, and representing 2.3% of the

⁷⁹ *See* Scoping Comments at 30-33, DEIS, Vol. III at 37-40; Olden et al., *supra* note 12 at 10-11.

country's total gross domestic product (GDP). Scoping Comments at 37, DEIS, Vol. III at 44.⁸⁰ More than two percent of the GDPs of the States of California, Minnesota, New Mexico, Oregon, and Washington are dependent on outdoor recreation. Yet the DEIS fails to adequately consider the impacts of the Proposed Rule on recreation, which we noted can result in 1.5 million displaced activities in a single year in areas where timber harvesting occurs. *Id.*

In particular, the DEIS fails to account for potential impacts to recreational fishing and hunting. "Forested landscapes ... support biological diversity, harbor numerous rare and culturally significant species, and provide recreational opportunities for hiking, fishing, boating, hunting, and wildlife observation."⁸¹ According to a study, there is "considerable overlap between watersheds with high IRA protections and those with high recreational demand for hunting and fishing. This implies that rescission of the Roadless Rule could compromise these and other outdoor recreational opportunities that depend on primitive wilderness lands that support functioning ecosystems."⁸² As explained in the Scoping Comments, there were over thirty-five million anglers engaged in freshwater fishing on lands managed by the U.S. Fish and Wildlife Service in 2022, generating ninety-nine billion dollars in economic output, Scoping Comments at 36, DEIS, Vol. III at 43. Given that "[o]ne of the primary justifications for promulgating the Roadless Rule was the importance of protecting water quality," *id.*, the DEIS's failure to evaluate the impacts to recreational fishing violates NEPA's requirement that "important effects [will] not be overlooked or underestimated." *Robertson*, 490 U.S. at 349; *see also* 42 U.S.C. § 4332(c)(i). The DEIS also fails to evaluate the impacts to the 14.4 million hunters who collectively spend more than 240 million days annually pursuing game. Scoping Comments at 36-37, DEIS, Vol. III at 43-44.

With respect to scenery, the DEIS acknowledges that "[o]bserving scenic views for pleasure is the second most common activity associated with recreational visits to national forests," DEIS, Vol. I at 167, and that "landscapes where scenic character appears altered have lower scenic integrity." *Id.* at 168. But the DEIS then downplays the scenic impacts from timber harvesting, stating that those impacts last only "a few years." *See, e.g., id.* at 171 ("Scenery effects of timber harvest are often the most noticeable for a few years after implementation"); *id.* at 172 ("Stumps, slash, and edge effects of freshly logged areas ... can result in a forest that appears moderately altered for a few years"); *id.* at 173 ("Hazardous fuels reduction activities could change the character of the landscape where activities occur for a few years"). By downplaying the scenic impacts of timber harvesting, the DEIS fails to adequately identify and evaluate the potential long-term impacts of the Proposed Rule. *Robertson*, 490 U.S. at 350. Moreover, the DEIS completely fails to evaluate the potentially significant scenic impacts from

⁸⁰ *See also* Olden et al., *supra* note 12 at 12 ("[A]ccording to the Outdoor Alliance, IRAs protect over 11,000 climbing and bouldering routes, more than 1,000 whitewater paddling runs, over 70,000 kms (43,000 miles) of trails, including over 20,000 suitable for mountain biking. The economic value of protecting these areas for recreation is significant, estimated at \$500 million in 2017." (cleaned up)).

⁸¹ Olden et al., *supra* note 12 at 2.

⁸² *Id.* at 12.

mineral and oil and gas extraction, including road construction. The agency should evaluate the cumulative scenic impacts of *all* foreseeable activities authorized by the Proposed Rule. *See, e.g., Oregon Nat. Res. Council Fund v. Brong*, 492 F.3d 1120, 1132–33 (9th Cir. 2007) (“where ‘several actions have a cumulative...environmental effect, this consequence must be considered in an EIS.’”) (cleaned up).

With respect to trail-based recreation, the DEIS recognizes that the Proposed Rule will “provide fewer quiet, remote settings” than either the no action alternative (alternative 1) or the modified rule (alternative 3). DEIS, Vol. I at 180. “As a result, users seeking a more natural setting are more likely to experience decreased availability of their preferred recreation setting or be displaced to other areas.” *Id.* (“Visual and noise impacts may also affect the quality of the recreation experience.”).

As we mentioned in the Scoping Comments, “[p]ublic lands currently protected by inventoried roadless areas include over 26,000 miles of trails, more than 8,500 rock climbing routes, and over 750 miles of whitewater rafting runs,” with “[s]ome of the most popular hiking trails in the country pass[ing] through inventoried roadless areas, including segments of the Pacific Crest Trail, the Continental Divide Trail, and the Appalachian Trail.” Scoping Comments at 36, DEIS, Vol. III at 43. The Proposed Rule will greatly impact our National Scenic and Historic Trails, described as “long-distance, continuous trails that provide for maximum outdoor recreation potential and for the conservation and enjoyment of the nationally significant scenic, historic, natural, or cultural qualities of the areas.” DEIS, Vol. I at 178-79. The DEIS acknowledges that commenters have “expressed concern about risks to protected trails including sections of the Continental Divide, Pacific Crest, and Appalachian National Trails which depend on adjacent roadless buffers to maintain their character and scenic value.” DEIS, Vol. I, Appendix 3 at 26. The DEIS does not adequately address the potential impacts to these long-distance historic trails which bring visitors from around the nation and world. *See* Scoping Comments at 36, DEIS, Vol. III at 43. However, by assuming that most impacts will be only “short-term” or “temporary,” DEIS, Vol. I at 180-81, the DEIS does not fully and adequately analyze the potential impacts of the Proposed Rule on trail-based recreation, including the possibility of long-term or permanent visual and noise impacts to trail-based recreation from adding new miles of paved roads or converting dirt roads to paved roads to accommodate timber harvesting or mineral and energy extraction activities, as well as the visual and noise impacts from those activities.

The DEIS should also consider the cumulative impacts of its proposal to revise the Forest Service’s Travel Management Regulations, 36 C.F.R. pt. 212. *Oregon Nat. Res. Council Fund*, 492 F.3d at 1132-33. Just days after publishing the Proposed Rule, the Forest Service published its notice of intent to prepare an environmental impact statement to revise its Travel Management; National Forest System Lands, 91 Fed. Reg. 54,686 (Aug. 24, 2026) (to be codified at 36 C.F.R. pts. 212 & 261). The existing Travel Management Regulations provide a framework for local land managers to determine which roads, trails, and other areas are open to

motor vehicles in the National Forest system. The Roadless Rule and Travel Management Regulations are thus highly related. The Forest Service must consider the potential adverse environmental, social, scenic, and economic consequences of its proposed revisions—particularly the impacts from off-road vehicles and other motorized recreational vehicles—on non-motorized recreation. We refer you to the Comments on the United States Department of Agriculture, Forest Service Notice of Intent to Prepare an Environmental Impact Statement to Revise the Travel Management Regulation, dated September 23, 2026, by the Attorneys General of the States of New Mexico, California, Colorado, Oregon, Minnesota, Washington, and Wisconsin, submitted alongside this letter. Eliminating these two protections (Roadless Rule and Travel Management Regulations) together will even more significantly harm natural resources and National Forest health, decrease public safety, and increase conflict among different users of the National Forest System.

Finally, with respect to wilderness areas, according to the DEIS there are over four million acres, or approximately ten percent of total IRA lands, that are “within wilderness, wilderness study areas, and wild and scenic river corridor segments classified as wild.” DEIS, Vol. I at 30, 185, 186, tbl. 43.⁸³ While these areas are subject to their own laws, regulations, and restrictions, including the 1964 Wilderness Act, *id.* at 187, the DEIS does not adequately consider the recreational and scenic impacts to wilderness areas of road construction, timber harvesting, and mining and energy extraction on lands near or adjacent to those areas. The DEIS recognizes that the “trend of shifting human patterns, increased resource management activity, and reduced ecological integrity near designated wilderness could increase the threat to the qualities of wilderness character of these areas.” DEIS, Vol. I at 190-91. The agency should fully analyze and quantify the magnitude of this threat, which the DEIS fails to do. *See Engine Mfrs. Ass’n v. EPA*, 20 F.3d 1177, 1181 (D.C. Cir. 1994) (“[T]he Administrative Procedure Act requires the agency to make available to the public, in a form that allows for meaningful comment, the data the agency used to develop the proposed rule.”).

D. The Agency Failed to Identify or Discuss Adequate Mitigation Measures.

NEPA requires that an agency identify feasible mitigation measures for any adverse environmental impacts resulting from a proposed action and its alternatives. *Robertson*, 490 U.S. at 351-52 (“[O]ne important ingredient of an EIS is the discussion of steps that can be taken to mitigate adverse environmental consequences.”). Mitigation of environmental impacts must “be discussed in sufficient detail to ensure that environmental consequences have been fairly evaluated.” *City of Carmel-by-The-Sea*, 123 F.3d at 1154 (quoting *Robertson*, 490 U.S. at 352). Moreover, “[a]n essential component of a reasonably complete mitigation discussion is an

⁸³ In addition to wilderness areas, the Forest System also contains congressionally and administratively designated areas such as National Recreation Areas, National Scenic Areas, and National Primitive Areas; National Scenic Areas and National Recreation Areas; Game Refuges and Wildlife Preserves; National Monuments and Volcanic Monuments; Wild and Scenic Rivers; Wilderness Study Areas; Research Natural Areas; and National Scenic and Historic Trail corridors. *Id.* at 188, Table 44.

assessment of whether the proposed mitigation measures can be effective.” *S. Fork Band Council of W. Shoshone of Nev. v. U.S. Dep’t of the Interior*, 588 F.3d 718, 727 (9th Cir. 2009) (finding that the EIS violated NEPA by failing to “assess the effectiveness of the mitigation measures relating to groundwater”).

NEPA does not allow the Agency to simply ignore consideration of mitigation measures now by listing steps that might be taken in the future. *See S. Fork Band Council*, 588 F.3d at 727 (“[T]hat these individual harms are somewhat uncertain due to BLM’s limited understanding of the hydrologic features of the area does not relieve BLM of the responsibility under NEPA to discuss mitigation of reasonably likely impacts at the outset.”); *Neighbors of Cuddy Mountain v. U.S. Forest Serv.*, 137 F.3d 1372, 1380 (9th Cir. 1998) (finding a “mere listing of mitigation measures” is not enough to satisfy NEPA); *Nat’l Parks & Conservation Ass’n v. Babbitt*, 241 F.3d 722, 734 (9th Cir. 2001) (“A perfunctory description, or mere listing of mitigation measures, without supporting analytical data, is insufficient to support a finding of no significant impact.”) (cleaned up). As the Ninth Circuit has frequently stated in NEPA cases, it is “not appropriate to defer consideration” of impacts to a future date “when meaningful consideration can be given now.” *See Kern*, 284 F.3d at 1075.

Throughout the DEIS, the Agency declines to consider mitigation measures, instead indicating that such measures will be evaluated later in the development process. *See, e.g.*, DEIS, Vol. I at 33 (“Potential adverse effects described in this draft EIS could be reduced or mitigated at the project level through compliance with existing land management plan direction, implementing best management practices, or employing project-specific design criteria; or through future land management planning.”); *id.* at 108 (Regarding invasive non-native plants: “With compliance of applicable laws and implementation of the forest plan’s standard and guidelines for invasives species in addition to future project design features and management requirements to mitigate invasive[] species introduction and spread, the effects from activities resulting in the implementation of alternatives 2 and 3 are not expected to greatly increase.”); *id.* at 141 (“through project-specific planning, future activities would be designed to avoid or minimize adverse impacts from road construction or reconstruction to biodiversity”); *id.* at 234 (“Removing the Roadless Rule would have a slightly larger potential for adverse effects to [soil, water, air] than keeping the Roadless Rule in place because it is anticipated that there would be slightly more road development. However, the differences would be minor because project-level analysis would use best management practices and land management plan standards and guidelines to lessen or mitigate effects.”).

This deferral of a full consideration of mitigation and best management practices is inappropriate. To comply with NEPA, the Agency is required to identify feasible mitigation measures and discuss them in sufficient detail to ensure the environmental consequences of the proposed rescission of the Roadless Rule have been adequately considered. The Agency fails to do so in the DEIS.

E. The Agency Fails to Adequately Consider Indirect and Cumulative Effects

The Agency must conduct an in-depth analysis of all reasonably foreseeable impacts of rescinding the Roadless Rule, including not only direct, but also indirect and cumulative impacts.⁸⁴ However, the DEIS does not meet the statutory mandate of NEPA because it fails to adequately analyze reasonably foreseeable indirect and cumulative impacts, including climate change impacts.

1. The FEIS must analyze how rescission of the Roadless Rule will impact climate change.

The Agency not only fails to take a “hard look” at climate impacts, it also fails entirely to mention climate change impacts in the DEIS. “To satisfy the ‘hard look’ requirement, an agency must provide ‘a reasonably thorough discussion of the significant aspects of the probable environmental consequences.’” *350 Montana v. Haaland*, 50 F.4th 1254, 1265 (9th Cir. 2022) (citing *Ctr. for Biological Diversity*, 538 F.3d at 1194). NEPA requires the analysis of “reasonably foreseeable impacts” without an exception for impacts on climate. 42 U.S.C. 4332(2)(C)(i), (ii).⁸⁵ The Agency cannot choose to ignore the best available scientific

⁸⁴ Effects or impact “means changes to the human environment from the proposed action or action alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives. Effects include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic (such as the effects on employment), social, or health effects. Effects may also include those resulting from actions that may have both beneficial and detrimental effects, even if on balance the [Agency] believes that the effect will be beneficial.” 7 C.F.R. § 1b.11(a)(12) (2025). Cumulative impact analyses describe the threat to resources as a whole, presented from the perspective of the resource instead of from the individual project. Cumulative impacts can result from individually minor, but collectively significant, actions taking place over a period of time. Cumulative impacts are reasonably foreseeable, and thus the Agency must take them into account.

⁸⁵ Courts have rejected agency refusals to properly quantify the costs of greenhouse gas emissions, and identify and disclose to the public the actual climate impacts caused by these emissions. *See, e.g., Montana Env't Info. Ctr. v. U.S. Off. of Surface Mining*, 274 F. Supp. 3d 1074 (D. Mont. 2017), amended in part, adhered to in part sub nom. *Montana Env't Info. Ctr. v. United States Off. of Surface Mining*, No. CV 15-106-M-DWM, 2017 WL 5047901 (D. Mont. Nov. 3, 2017) (rejecting agency’s failure to incorporate the federal SCC estimates into its cost-benefit analysis of a proposed mine expansion); *see also Zero Zone, Inc. v. U.S. Dep’t of Energy*, 832 F.3d 654, 679 (7th Cir. 2016) (holding estimates of the social cost of carbon (SCC) used to date by agencies were reasonable); *High Country Conservation Advocates v. U.S. Forest Serv.*, 52 F. Supp. 3d 1174, 1190–93 (D. Colo. 2014) (holding the SCC was an available tool to quantify the significance of greenhouse gas impacts, and it was “arbitrary and capricious to quantify the benefits of the lease modifications and then explain that a similar analysis of the costs was impossible”) (emphasis in original). Merely listing the quantity of emissions is insufficient if the agency “does not reveal the meaning of those impacts in terms of human health or other environmental values,” since “it is not releases of [pollution] that Congress wanted disclosed” but rather “the effects, or environmental significance, of those releases.” *NRDC v. NRC*, 685 F.2d 459, 486–87 (D.C. Cir. 1982), rev’d on other grounds, *Baltimore Gas & Elec. Co. v. NRDC*, 462 U.S. 87, 106–07 (1983). Further, to comply with NEPA, the Forest Service must utilize “the best available scientific information.” *Biodiversity Cons. All. v. Jiron*, 762 F.3d 1036, 1086 (10th Cir. 2014) (cleaned up). The Agency “shall

information when it relates to climate change. The Agency fails to identify and evaluate the climate impacts of the alternatives, including but not limited to the reasonably foreseeable loss of multiple major carbon sinks, and the reasonably foreseeable increase in greenhouse gas (GHG) emissions from roadbuilding and reconstruction, increased logging, mining, oil and gas development, transportation, and other industrial activity, as well as the increase in wildfire. *See* Scoping Comments at 41-47, DEIS, Vol. III at 48-54.

Analysis of some of these impacts, such as the total volume of carbon generated or greenhouse gases emitted, should be conducted on a national scale. But the effects felt from an increase in climate change impacts can vary by forest so those on the ground impacts should be analyzed at the level of each forest, region, or each forest type.

a. Cumulative impacts of lost carbon storage and increased carbon emissions.

The Agency must analyze the impact of lost carbon storage from rescission of the Roadless Rule. The Agency recognizes in the DEIS that forests store carbon, and that old growth forests provide the most carbon storage. DEIS, Vol. I at 65-66. But the Agency does not quantify the expected loss of carbon storage from the proposed rescission or analyze the climate change impacts of this expected loss.

In the DEIS, the Agency discusses only minimally the role that forests play as carbon sinks and provides no analysis of the reasonably foreseeable environmental impacts that would result from their loss. Although acknowledging that “[c]arbon sequestration, storage, and emissions are important functions of forests, including in the inventoried roadless areas,” it provides only a cursory discussion of the amount of carbon that forests in the United States contain. DEIS, Vol. I at 66. The DEIS concludes without much analysis or factual support that “[u]nder all alternatives, the inventoried roadless areas will continue to be managed primarily as forests and continue to sequester and store carbon.” *Id.*

Under alternative 2, for example, the DEIS concludes that there would be a loss of stored carbon and capacity for carbon sequestration but states that “these areas would be small compared to the overall carbon within the forested landscape within roadless areas.” *Id.* at 79. This perfunctory discussion fails to provide an in-depth evaluation of any of the following, among others: (1) the potential impacts of the reasonably foreseeable loss of carbon storage and the impact to carbon storage in soils within and outside the IRAs; (2) the impacts of logging on microbial and mycorrhizal exchange; (3) reliable estimates of how much carbon is emitted by clearcutting; (4) an estimate of the length of time that carbon released by foreseeable actions

consider and should address in writing comments that raise substantive issues and/or recommendations. 7 C.F.R. § 1b.7(f)(2025).” Regulations implementing the planning provisions of NFMA require the use of “the best available scientific information.” 36 C.F.R. § 219.3. The Agency must “document how the best available scientific information was used,” and such documentation must “identify what information was determined to be the best available scientific information, explain the basis for that determination, and explain how the information was applied to the issues considered.” *Id.*

would remain in the atmosphere; (5) estimates of how much land would need to be reforested after timber harvests to recover carbon storage; and (6) estimates of the amount of carbon storage or capacity for carbon sequestration that would be lost.

The increased timber harvesting that is foreseeable under alternatives 2 and 3 will both release carbon stored in the harvested timber and reduce the capacity of the remaining forest to sequester carbon. DEIS, Vol. I at 79, 82. This simultaneous release of carbon and reduction in sequestration capacity will exacerbate climate change through the release of greenhouse gases and reduction in storage of carbon. As the Agency recognized in the 2000 FEIS, forests and forest management can play a role in addressing climate change, and forests can be managed to maximize carbon accumulation (sink enhancement) and minimize carbon loss (emission reduction). 2000 FEIS Vol. 1 at 3-65 to 3-66. In this DEIS the Agency does not analyze the impact of this lost carbon or lost carbon sequestration capacity in terms of the expected increased release of greenhouse gases and its effects exacerbating climate change. The DEIS only states that there will be a loss of carbon storage, without quantifying an expected loss of storage for either alternatives 2 or 3. DEIS, Vol. I at 79, 82.

The Agency must fully disclose reliable estimates of how much carbon would be emitted because of the proposed action to meaningfully inform decision makers and the public of the true costs of rescinding the Roadless Rule. *See* Scoping Comments at 43-46, DEIS, Vol. III at 50-53. But, the DEIS offers no analysis of the reasonably foreseeable GHG emissions, and their resulting impact on climate change, that would be likely to result from alternatives 2 and 3. “The impact of greenhouse gas emissions on climate change is precisely the kind of cumulative impacts analysis that NEPA requires agencies to conduct.” *Ctr. for Biological Diversity*, 538 F.3d at 1217. In *Center for Biological Diversity*, the National Highway Traffic Safety Administration prepared an Environmental Assessment that quantified the expected amount of carbon dioxide that would be emitted from light trucks, but did not evaluate the “incremental impact” that these emissions would have on climate change or on the environment. *Id.* The Ninth Circuit compared the quantification of emissions to merely stating the number of acres to be harvested from logging or the miles of roads to be constructed. *Id.* While the quantifications may provide some information, they do not explain the actual environmental effects. *Id.* The Court held that the agency has a duty to assess the effects of its actions on global warming and by failing to do so its assessment was inadequate. *Id.* at 1216-17.

Unlike the National Highway Traffic Safety Administration, the Agency does not even attempt to quantify the reasonably foreseeable release of GHG emissions that would result from the Proposed Rule. Instead, the Agency merely states that emissions are likely to occur, and then conducts no analysis, leaving it to state and local managers. *See* DEIS, Vol. I at 126 (“State and local managers and experts would be best positioned to conduct the analyses needed to inform specific emission scenarios and potential air quality outcomes at the appropriate scale.”); DEIS, Vol. I at 128 (“Increases in miles traveled will result in increased emissions. It is difficult to assess potential differences in effects between the alternatives at the national scale.”). The

Agency only discusses emissions in the context of pollution; there is no discussion of GHG emissions and the resulting impact to climate change. *See* DEIS, Vol. I at 126-27 (discussing smoke resulting from wildfires and the impact to air quality); *id.* at 128 (discussing emissions of particulate matter from road construction).

Given the robust body of scientific evidence that exists on the importance of forests to the climate, it is unreasonable—and fatally deficient—that the DEIS excludes any discussion of likely climate impacts from the alternatives. This is especially true when several studies regarding the value that IRAs provide in sequestering and storing carbon and reducing GHG emissions were listed in the Scoping Comments, Scoping Comments at 42, DEIS, Vol. III at 49, which undoubtedly did not include all the existing scientific evidence available to the Agency regarding the role of forests in mitigating climate change. One study concluded that preserving certain temperate forests in the western United States could sequester the equivalent of about six years of fossil fuel emissions from the same region.⁸⁶ By contrast, another study looking at the impacts of logging and considering carbon stores from wood products concluded that logging Tongass old-growth and young-growth forest under the 2016 Forest Plan would result in annual carbon dioxide emissions totaling between 4.2 million tons and 4.4 million tons, depending on the time horizon chosen.⁸⁷

b. Carbon sequestration capacity of soil.

In its analysis of the carbon sequestration capacity of IRAs and the impacts of rescinding the Roadless Rule, the Agency fails to consider carbon storage in soils. However, there are foreseeable impacts to soils and their carbon storage capacity that would result from rescission of the Roadless Rule.

Research on carbon isotope labeling has shown that trees exchange carbon below ground with the aid of mycorrhizal fungi.⁸⁸ Research also indicates that mycorrhizal fungi networks become more connected and take up more carbon with forest succession, a process that would be interrupted by increased activity related to rescission of the Roadless Rule.⁸⁹ The impacts of the Rescission will also accumulate on top of existing changes to soils driven by climate change.⁹⁰

⁸⁶ Polly C. Buotte et al., *Carbon Sequestration and Biodiversity Co-Benefits of Preserving Forests in the Western United States*, 30 *Ecological Applications* e02039 (2020), <https://doi.org/10.1002/eap.2039>.

⁸⁷ Dominick A. DellaSala, Geos Inst., *The Tongass Rainforest as Alaska's First Line of Climate Change Defense and Importance to the Paris Climate Change Agreements* 14 (2016), <https://geosinstitute.org/wp-content/uploads/2016/01/tongass-report-emissions-2016-01.pdf>.

⁸⁸ Klein T, et al. *Belowground carbon trade among tall trees in a temperate forest*, 352 *Science* 342, 342-44 (2016), <https://pubmed.ncbi.nlm.nih.gov/27081070/>.

⁸⁹ Elly Morriën et al., *Soil Networks Become More Connected and Take Up More Carbon as Nature Restoration Progresses*, 8 *Nature Commc'ns* 14349 (2017), <https://doi.org/10.1038/ncomms14349>.

⁹⁰ *See* Gavin McNicol et al., *Large, climate-sensitive soil carbon stocks mapped with pedology-informed machine learning in the North Pacific coastal temperate rainforest*, 14 *Env't Rsch. Letters* 014004 (2019), <https://iopscience.iop.org/article/10.1088/1748-9326/aaed52> (climate change induced

The Agency must evaluate the impacts of logging on soil microbial and mycorrhizal fungi and soil carbon storage in the FEIS.

c. Other sources of increased greenhouse gas emissions.

The Agency also must provide an analysis of the reasonably foreseeable GHG emissions from other sources beyond timber. Rescission of the Roadless Rule would increase the GHG emissions as a result of roadbuilding and reconstruction, increased logging, mining, and other industrial activity, as well as from an anticipated increase in wildfires.

For instance, logging involves transporting trucks and machinery across long distances between the forest, the mill, and the point of distribution. The Agency must estimate, disclose, and evaluate the impacts of these emission sources. For every ton of carbon emitted from logging, an additional approximately seventeen percent is estimated to be emitted as a result of fossil fuel consumption needed to support the transportation, extraction, and processing of the wood.⁹¹ This does not include the significant emissions that result from road construction and maintenance.⁹² The Agency must consider state emissions data to obtain reliable estimates of emissions from transport and manufacturing of wood products, including transporting logs long distances to China and other countries, as well as shipping manufactured products to retail and distribution areas.

The Agency also fails to analyze the climate change impacts of the increased development of oil, gas, and coal that the Agency expects under alternatives 2 and 3. *See* DEIS, Vol. I at 60. It is reasonably foreseeable that this increased development would result in an increase in the burning of those fossil fuels, releasing GHG emissions. These GHG emissions would contribute to climate change. The Agency must assess this in the FEIS.

The Agency recognizes that there has been increasing drought, extreme temperatures, wildfire, and insect and disease infestations affecting forest health. DEIS, Vol. I at 66, 68. But the Agency fails to acknowledge or consider how rescission of the Roadless Rule would contribute to the increased release of GHGs, which would in turn further contribute to an increase in the frequency of droughts, extreme temperatures, wildfire, and insect and disease infestations. Each of these stressors of forest health is worsened by rising temperatures driven by ongoing climate change. The Agency must analyze and consider these factors in the FEIS.

In sum, the Agency has not taken a “hard look” at the reasonably foreseeable climate impacts of the Proposed Rule, indeed, it has not truly looked at all. To comply with NEPA, the Agency must fully consider the reasonably foreseeable impacts that rescinding the Roadless

temperature increases will lead to soil exposure, increased drying, reduced snowpack, and ultimately release of methane, which can trap up to 100 times more heat than carbon dioxide in the short term.)

⁹¹ Ann Ingerson, *The Wilderness Soc’y, Wood Products and Carbon Storage: Can Increased Production Help Solve the Climate Crisis?* (Apr. 2009), <https://www.issuelab.org/resources/3193/3193.pdf>.

⁹² *See* Loeffler et al. Estimating Diesel Fuel Consumption and Carbon Dioxide Emissions from Forest Road Construction, 2009. <https://research.fs.usda.gov/download/treesearch/33352.pdf>.

Rule would have on climate.

d. The Agency did not adequately analyze the combined effects of roads, access, climate, and fuels management on wildfire risk.

Wildfire outcomes result from interacting conditions rather than isolated variables. Roads, human access, ignition sources, vegetation, fuel continuity, topography, weather, climate, suppression capacity, and surrounding development all influence wildfire risk and consequences. The Agency therefore cannot adequately analyze the consequences of the proposed rescission by evaluating hypothetical road construction or fuels treatment in isolation. The Agency's analysis must address the interaction between the existing National Forest System road network; future road construction that would be enabled by the proposed rescission; increased human access, especially with the proposed revision to the Forest Service's travel management regulations; human-caused ignitions; climate-driven changes in extreme fire weather; existing and future fuels treatments; wildland-urban interface development; and future suppression demands, among other potentially synergistic effects of the Proposed Rule.

These considerations are particularly important because rescinding the Roadless Rule will result in cumulative effects over time. As explained above, roads intended to facilitate management may also result in increased public access and fire ignitions and those increased ignitions may increase suppression demands and wildfire exposure. Roads may persist after treatments are completed. Treatments may require repeated maintenance to maintain effectiveness. Climate-driven changes in weather may diminish the effectiveness of treatments during the extreme conditions associated with the most damaging fires. The Agency must analyze these interacting potential consequences sufficiently to permit the public and decision makers to understand whether the asserted wildfire benefits of rescission are likely to outweigh its reasonably foreseeable adverse effects.

2. The FEIS must analyze the cumulative impacts of the Proposed Rule on water resources.

Several anticipated impacts of the Proposed Rule relate to water quality. The Agency performs some analyses of these impacts in the DEIS, though, as discussed above in Section IV(C)(5), pages 44-45, they are insufficient under NEPA. *See* DEIS, Vol. I at 116-25. However, the Agency does not assess the foreseeable cumulative impacts to water resources.

For instance, the Agency analyzes in the DEIS the impacts on water resources of building new roads, DEIS, Vol. I at 108, 117-24, but fails to consider the cumulative impacts of new roads combined with the impacts of existing poorly maintained roads. Where a water body is already impaired by uncontrolled sediment runoff from an unmaintained road, the construction of another road, which may or may not come with funding for maintenance, could result in more significant impacts than a road built in a pristine area.

The Agency must analyze the cumulative impacts of building new roads that will add to

the existing road maintenance backlog given the lack of sufficient funding available to maintain pre-existing roads. The Agency admits it will not have enough money to maintain the roads it knows will be built: “revenue generated by timber sales or other resource extraction activities would be used for some road-related system management but not be sufficient to cover the costs of constructing and maintaining all new roads related to a project.” DEIS, Vol. I at 45. The Agency also notes that there is an enormous backlog of road maintenance amounting to \$6.9 billion. DEIS, Vol. I at 43. The cumulative impacts on water resources of unmaintained new roads on top of unmaintained old roads are likely greater than the impact of unmaintained new roads in isolation, and those impacts may be more than additive.

Wildfires can also increase runoff into streams where established trees and other vegetation can no longer hold onto soil, especially on slopes. The proposed action is designed to allow for increased road construction, leading to greater road density and the likely increase in “the probability, number, and frequency of wildfire ignitions.” DEIS, Vol. I at 101. The Agency must consider how increased numbers of fires and the concomitant increased runoff will impact water resources while taking into account the additional runoff from new roads.

3. The FEIS must analyze the cumulative impacts of the Roadless Rule rescission on forest health, plants, and wildlife.

The Agency fails to analyze how the cumulative impacts of the impacts anticipated from the proposed rescission of the Roadless Rule could accumulate and cause more significant harms to forest ecosystems and to plants and wildlife. As analyzed in the DEIS, the building of a road or harvesting of timber can increase surface water runoff, move snowpack melt to earlier in the season, allow for more invasive species penetration, fragment habitat, increase edge areas, make trees more susceptible to pests, and increase the risk of forest fire ignition, not to mention lead to increased emissions of GHGs. Each of these would be a significant impact on its own. When added together these impacts would place even greater stress on forests, plants, and wildlife. These cumulative impacts make forests less robust and more susceptible to forest fire, pest infestations, and encroachment by invasive species. Similarly, animal populations stressed by one impact could face significantly more harm when faced with the accumulated harm of multiple impacts. The FEIS must assess these foreseeable cumulative impacts on forest health and animal populations.

4. The FEIS must analyze the cumulative impacts of air pollution.

The Agency analyzes some impacts to air quality that would result from the different alternatives, but as discussed above in Section IV(C)(5), pages 45-46, its analysis is insufficient under NEPA. The DEIS does not consider the cumulative impact of air pollution that would be generated by the proposed action on existing levels of air pollution in neighboring communities. The Agency only differentiates impacts based on nonattainment under the Clean Air Act. DEIS, Vol. I at 125-30. However, other sources of existing pollution that fall short of nonattainment can have significant impacts on communities on their own. The additional air pollution expected

to result under alternatives 2 and 3 could have an especially significant impact on communities already burdened by air pollution.

The escalating impacts of climate change, resulting in heatwaves, flooding, sea-level rise, extreme storms, and increases in infectious diseases, have disproportionately affected “[r]acially and socioeconomically marginalized communities,” including communities of color, low-income communities, and Indigenous Peoples and Tribal Nations, as well as people with disabilities and unhoused people.⁹³ Because of this, communities bearing these disproportionate impacts are already more vulnerable to additional environmental harm. Studies have shown climate-related impacts disproportionately affect vulnerable populations facing existing environmental burdens,⁹⁴ exacerbating environmental risk.⁹⁵ The burden of air pollution from wildfires thus falls unequally on communities already experiencing disproportionate environmental impacts compared to those experiencing relatively fewer impacts.

V. THE AGENCY’S COST BENEFIT ANALYSIS AND CONSIDERATION OF IMPACTS ON SMALL ENTITIES FAILS TO ADEQUATELY ANALYZE THE POTENTIAL ECONOMIC EFFECTS OF RESCINDING THE ROADLESS RULE

Executive Order (EO) 12866, *Regulatory Planning and Review*, directs agencies to conduct a cost-benefit analysis for any proposed regulatory action that has been determined to be significant. EO 12866 requires, among other things, that the agency consider “the costs and the benefits of the intended regulation and, recognizing that some costs and benefits are difficult to quantify, propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs.” Exec. Order No. 12,866 § 1(b)(6), 58 Fed. Reg. 51,735, 51,736 (Oct. 4, 1993). EO 12866 also directs the agency to “base its decisions on the best reasonably obtainable scientific, technical, economic, and other information concerning the need for, and consequences of, the intended regulation.” Exec. Order No. 12,866 § 1(b)(7), 58 Fed. Reg. at 51,736. While the Agency purports to meet these requirements in its “Cost Benefit Analysis and Consideration of Impacts on Small Entities” document (Cost Benefit Analysis), the analysis comes nowhere close to a true cost benefit analysis.

At the outset, the Cost Benefit Analysis is deeply flawed in that it artificially minimizes, and in some instances outright fails to calculate, the economic and social costs of the Proposed Rule by assuming that steady or declining demand for timber, minerals, and energy will have negligible effects on other industries, including commercial fisheries and recreation; and that such activities would only be allowed where consistent with existing forest plans. However,

⁹³ Alique G. Berberian et al., *Racial Disparities in Climate Change-Related Health Effects in the United States*, 9 *Current Env’t Health Reps.* 451, 454 (2022); see also A.R. Crimmins et al., *U.S. Glob. Change Rsch. Program, Fifth National Climate Assessment ch. 15* (2023), <https://nca2023.globalchange.gov/chapter/15/>.

⁹⁴ *Id.* at 451-52.

⁹⁵ H. Orru et al., *The Interplay of Climate Change and Air Pollution on Health*, 4 *Current Env’t Health Reps.* 504, 504 (2017).

these assumptions directly contradict the Proposed Rule’s purpose and need, which is purportedly to “alleviate unnecessary regulatory burdens” in order to implement Executive Order 14225, *Immediate Expansion of American Timber Production*, and Executive Order 14154, *Unleashing American Energy*. DEIS Vol. I at 10-11. In other words, it is unreasonable for the Cost Benefit Analysis to assume that timber harvesting and mineral and energy extraction will not increase in IRAs—with the attendant adverse effects on fisheries and recreation—when expanding timber and energy production is the stated intent of the Proposed Rule.

A. The Cost Benefit Analysis Suffers from a Lack of Public Participation.

We also note that the Cost Benefit Analysis suffers from a lack of adequate information, which is compounded by the lack of adequate public participation. For example, Table 4, *Benefits and Costs of Proposed Rule*, is woefully inadequate to provide the public with the information required under NEPA and EO 12866; indeed, the Agency seeks the public’s input to supply the missing information. *See, e.g.*, Cost Benefit Analysis at 24 (“requesting comments on effects related to anticipated leasable mineral production”); *id.* at 25 (“requesting comments on effects related to commercial fisheries”); *id.* at 26 (“interested in comments on analysis of rule impacts on recreation”); *id.* at 30 (“interested in comments on what evidence demonstrates whether the industries would experience direct effects or distributional effects or both”). The extended 36-day comment period (extended from the original 21-day comment period) was inadequate to allow for the public participation required for the agency to receive the public input it solicits. *See Chamber of Com. of United States v. Sec. & Exch. Comm’n*, 670 F. Supp. 3d 537, 547 (M.D. Tenn. 2023), *aff’d*, 115 F.4th 740 (6th Cir. 2024) (recommending “at least 60 days” for public comment on “[s]ignificant regulatory action[s]”).

B. Response to Specific Economic Costs and Benefit.

1. Timber.

The Cost Benefit Analysis’s discussion of the projected benefits of timber harvesting does not justify the Proposed Rule. The Cost Benefit Analysis assumes that, “[w]hile projected harvest levels are not expected to be significantly different under the proposed rule, the roadless rule can influence the potential location or likelihood of future timber harvesting.” Cost Benefit Analysis at 20. In other words, while total timber harvesting will remain constant, “it is reasonably foreseeable that an increasing proportion of timber volume sold would come from within the potentially affected inventoried roadless areas.” *Id.* at 21. The Cost Benefit Analysis estimates the economic impact of the Proposed Rule as potentially increasing revenue from timber harvesting on USFS lands by up to \$11.4 million per year. *Id.* at 22. As revenue from timber harvesting on USFS land in 2023 was valued at \$163 million, *id.* at 10, this amounts to a revenue increase of less than seven percent—hardly an amount that justifies threatening the \$8.5 billion spent annually by visitors to potentially affected IRAs. Cost Benefit Analysis at 16; *see State Farm*, 463 U.S. at 43 (“[T]he agency must examine the relevant data and articulate a

satisfactory explanation for its action including a rational connection between the facts found and the choice made.”) (cleaned up). Moreover, even the paltry economic benefits ascribed to the Proposed Rule are doubtful given that timber harvesting on USFS land peaked in 1987, and that, “[f]or the last 15 years, timber harvest volume [has] remained relatively constant.” Cost Benefit Analysis at 9-10. *See State Farm*, 463 U.S. at 43 (agency action is arbitrary where agency has “offered an explanation ... [that] is so implausible that it could not be ascribed to a difference in view or the product of agency expertise”).

2. Minerals and Energy.

The Cost Benefit Analysis for minerals and energy is likewise flawed. According to the Cost Benefit Analysis, “[r]oad construction and reconstruction for locatable mineral exploration and development is a right of access as provided by the General Mining Law, and therefore there are no anticipated changes in locatable mineral production and associated costs and benefits under the proposed rule.” Cost Benefit Analysis at 23. Although the Cost Benefit Analysis opines that “[t]he removal of prohibitions within the potentially affected IRAs could generate renewed interest in mineral leasing where road building was previously not allowed,” *id.*, the Cost Benefit Analysis also anticipates that “there would be no net change, relative to baseline conditions, in domestic leasable minerals production under the proposed rule because domestic oil, gas, and coal production are projected to be steady or decline.” *Id.*; *see also* DEIS, Vol. I at 59 (“the effects on locatable mineral exploration and development are generally the same [under alternative 2] as those under alternative 1”). Once again, the assumption of no net change is contrary to the stated purpose and need of the Proposed Rule, which includes promoting energy production under E.O. 14154.

3. Roads.

With respect to roads, the Cost Benefit Analysis estimates the cost of road construction at \$80,000-\$100,000 per mile for dirt roads, and up to \$1,000,000-\$2,000,000 per mile per lane for paved roads. Cost Benefit Analysis at 27. This estimate does not include the cost of bridges, retaining walls, or other drainage structures. *Id.* Road maintenance of the existing network alone can cost from \$5,000 to \$50,000 per mile annually. *Id.* As of 2024, the Forest Service estimates a deferred maintenance backlog of \$6.9 billion for USFS roads and bridges. *Id.* at 19. Instead of attempting to quantify the Proposed Rule’s road construction costs, the Cost Benefit Analysis instead evades the issue, stating that “the anticipated potential for road development within IRAs is not significant compared to the total mileage of the NFS road system.” *Id.* at 27-28. As the Proposed Rule will open up millions of acres of previously roadless areas to road construction and associated road maintenance costs, the Agency should attempt to quantify the anticipated costs of road construction and maintenance within IRAs should the Agency adopt the Proposed Rule.

4. Recreation.

The Cost Benefit Analysis recognizes that the Proposed Rule would impose an economic and social cost on recreation. According to the Cost Benefit Analysis, “[o]ne of the main costs to the public is the benefit loss to recreationists from the degraded user experience from effects to solitude, scenery, and from new roads.” Cost Benefit Analysis at 25; *see also id.* (“In the long-term, any changes in aggregate economic benefit to recreationists that occur under the proposed rule are most likely to be losses because timber harvest and road construction is anticipated to negatively change the recreation settings and opportunities for trail-based and dispersed area recreation within potentially affected IRAs and yield little positive increase in road-based and developed site recreation within potentially affected IRAs.”). This is no small matter. According to the DEIS, “[h]igh-quality scenery and access to recreational opportunities provide social and economic benefits locally, regionally, and nationally.” DEIS, Vol. I at 167. Moreover, “[o]bserving scenic views for pleasure is the second most common activity associated with recreational visits to national forests.” *Id.* Degraded scenery and recreational opportunities carry with them a high social cost, which the Cost Benefit Analysis fails to fully account for, instead requesting “comments on analysis of rule impacts on recreation.” Cost Benefit Analysis at 26; *see also* Section IV(C)(7) above (Recreation and Scenery).

The Cost Benefit Analysis should pay particular attention to the Proposed Rule’s potential economic impact on our National Scenic and Historic Trails. There are more than 1,000 miles of National Scenic and Historic Trails within potentially affected IRAs. DEIS, Vol. III at 179. These include the Pacific Crest Trail, the Continental Divide Trail, and the Appalachian Trail. As we noted in the Scoping Comments, “These three trails alone host millions of hikers every year and draw tourists from around the globe. Many of the towns found along these trails have developed economies reliant on the tourism that scenic trails like these bring to these areas. A decline in the number of hikers could be devastating to the economies of these small trail towns.” Scoping Comments at 36, DEIS, Vol. III at 43.⁹⁶ The Cost Benefit Analysis should address the economic and social cost to National and Historic Trails, and the local economies that rely on them, if the Roadless Rule is rescinded.

⁹⁶ *See* Comments by the North Carolina General Assembly, Sept. 19, 2025, at 1, DEIS, Vol. III at 212 (commenting that “North Carolina’s roadless areas are some of the wildest, most intact forest areas in the Southern Appalachian Mountains” that “are vital to [its] economy and environment”). *See also* Continental Divide Trail Coalition, *2023 CDT Small Business Survey* (eighty-two percent of small business owners “believe protecting, promoting and enhancing public lands ... is important to the general well-being of businesses, jobs, and their local economy.”), https://issuu.com/cdtc/docs/cdtc_small_business_report_2024?mc_cid=2f1285d523&mc_eid=b70cc11645; *see* Pacific Crest Trail Association, *Get involved: The USDA Moves to Allow Logging in Pristine Forests Along the PCT* (“Removing Roadless Rule protections [from the Pacific Crest Trail] could threaten the trail’s character, recreational value, and ecological integrity.”), <https://www.pcta.org/2026/get-involved-the-usda-moves-to-allow-logging-in-pristine-forests-along-the-pct-98524/>.

5. Commercial Fisheries.

With respect to commercial fisheries, the Cost Benefit Analysis acknowledges that, “in the long-term ... [adverse] effects [to aquatic species] could be more likely to occur if there is an increase in timber harvest.” Cost Benefit Analysis at 25. The DEIS explains that “[t]imber harvest and road-building activities can increase sedimentation, alter hydrology, and impair fish and aquatic organism passage, directly affecting fisheries that are central to Tribal diets, economies, and ceremonies.” DEIS, Vol. I at 202. As explained above, the Proposed Rule anticipates an increase in road construction and timber harvesting in IRAs. Indeed, timber harvesting is an underpinning of the Proposed Rule’s purpose and need, which is to advance E.O. 14225. Nevertheless, the Cost Benefit Analysis concludes that “the proposed rule is not expected to have a significant change to the commercial fishing or fish-processing industries over the planning period.” Cost Benefit Analysis at 24. This conclusion contradicts the DEIS and the Cost Benefit Analysis’s own analysis. *See State Farm*, 463 U.S. at 43 (agency action is arbitrary where agency has “offered an explanation ... [that] is so implausible that it could not be ascribed to a difference in view or the product of agency expertise”).

6. Fuels Management and Wildfire.

With respect to fuels management and wildfire, according to the Cost Benefit Analysis, “With increased road construction, there could be increased hazard (which carries a cost) from human-caused ignitions and increased opportunities for wildfire risk mitigation (which carries costs and benefits). Although lifting restrictions on road construction could expand treatment options in the wildland-urban interface, the high cost of road building and declining budgets for road construction and maintenance mean the overall increase in treatment capacity would be modest.” Cost Benefit Analysis at 26. As with the Cost Benefit Analysis’s assessment of the Proposed Rule’s costs of road construction, its assessment of the risks and costs of wildfire is contrary to the Proposed Rule’s purpose and need.

7. Passive Use Values.

Passive use values are described as the value that individuals assign to a resource independent of its economic value, and represent both a roadless area’s value to society simply by knowing that they exist and the nonmarket services that they provide to society, such as clean air and water. Cost Benefit Analysis at 28.⁹⁷ The Cost Benefit Analysis fails to adequately explain its methodology or fully account for the Proposed Rule’s potential impacts to passive use values. For instance, the Cost Benefit Analysis recognizes that “[f]orest ecosystems provide many important nonmarket services, and thus values, to society,” including “clean air, clean water, biological regulation, climate regulation, biodiversity, cultural and recreational services.” Cost Benefit Analysis at 28. The impact of rescinding the Roadless Rule on Americans’

⁹⁷ See also J. Vincent, et al., *Passive-Use Values of Public Forestlands: A Survey of the Literature* (Jan. 31, 1995), <https://www.fs.usda.gov/r6/icbemp/science/vincent.pdf>.

drinking water cannot be understated. “[B]y supporting the drinking water supply for 25 million Americans, the Roadless Rule and the sustainable forest management practices it mandates provide critical human health and economic benefits. Five states – Arizona, California, Colorado, Georgia and North Carolina – each have over 1 million [public water system] customers that receive drinking water from IRA-influenced watersheds.”⁹⁸ But the Cost Benefit Analysis fails to take full account of the impacts of the Proposed Rule on these passive use values. Instead, the Cost Benefit Analysis applies a “willingness to pay” model to measure the “forgone conservation value from potential harvest in roadless through changes in roadless designations.” *Id.* at 29. By assigning only a “foregone conservation value” to timber harvesting, the Cost Benefit Analysis fails to fully account for the passive use impacts of other activities that will be permitted under the Proposed Rule, including mining and energy extraction. All of these activities, and their cumulative effects on passive use values, must be evaluated.

C. The Cost Benefit Analysis Does Not Adequately Consider the Impacts on Small Entities.

Finally, the Cost Benefit Analysis’s assessment of the Proposed Rule’s potential impact on small businesses is “so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *State Farm*, 463 U.S. at 43. Initially, the Cost Benefit Analysis estimates the total recreation economy in our national forests at approximately three billion dollars (\$2.2 billion for trail-based and dispersed recreation and \$753 million for wildlife-related recreation). Cost Benefit Analysis at 36. From this, it estimates an “upper limit ... potential nationwide loss of \$7 million in expenditures around national forests by those engaging in trail-based and dispersed area recreation and an overall \$2 million loss in expenditures from those engaging in wildlife-related recreation.” *Id.* But according to the Forest Service’s own study, “annual spending by recreation visitors in areas near national forests and grasslands was about \$11 billion” in 2021, which amount “ripples through the U.S. economy,” contributing approximately \$13.7 billion to the nation’s gross domestic product and sustaining about 161,000 full-and part-time jobs.⁹⁹ The Cost Benefit Analysis must not only consider the direct economic effects of the Proposed Rule on the recreation economy, but also the “ripple[e]” effect on rural communities dependent on the recreation economy for their livelihoods.

VI. THE AGENCY’S RELIANCE ON ITS UNLAWFUL NEPA REGULATIONS IS ARBITRARY AND CAPRICIOUS AND VIOLATES NEPA

The Agency’s reliance on USDA’s unlawful NEPA regulations renders the Rescission Rule and the DEIS procedurally flawed and arbitrary and capricious. The Agency’s actions taken in reliance on the NEPA regulations are thus subject to vacatur. As discussed below, the USDA’s NEPA regulations were substantially revised through an interim final rule in 2025 to unlawfully

⁹⁸ Olden et al., *supra* note 12, at 11.

⁹⁹ U.S. Forest Serv., *National Visitor Use Monitoring Survey Results: National Summary Report* at 4 (Sept. 2023) (data collected FY 2018 through FY 2022) (italics added), <https://www.fs.usda.gov/sites/default/files/2022-National-Visitor-Use-Monitoring-Summary-Report.pdf>.

limit the agency's consideration of reasonably foreseeable impacts. *See* Revision of National Environmental Policy Act, 90 Fed. Reg. 29,632 (July 3, 2025) (Interim Final Rule).¹⁰⁰ These revisions were promulgated without following the required procedure for agency rulemaking, among other deficiencies.¹⁰¹ Accordingly, the Agency's reliance on these unlawful regulations in drafting the DEIS violates NEPA and is contrary to law.

A. The USDA NEPA Regulations are Unlawful.

As described in a multi-state comment letter on the Interim Final Rule, joined by many of the states joining this letter, both the NEPA regulations promulgated by the USDA in 2025, and the process by which they were promulgated, were unlawful because they improperly bypassed notice and comment rulemaking; the justification for revising and repealing regulations was arbitrary and capricious; and the USDA did not provide a reasoned justification for its proposed changes.¹⁰²

Relevant to the Proposed Rule's DEIS, the Interim Final Rule is contrary to law for failing to direct the Agency to evaluate the indirect and cumulative effects of a major federal action. The Council on Environmental Quality's (CEQ) NEPA regulations, which previously bound USDA and Forest Service's environmental analyses, had included in the definition of effects a requirement that agencies analyze the direct, indirect, and cumulative impacts of a major federal action. 40 C.F.R. § 1508.1(i)(2024). However, the USDA did not incorporate this language into its own regulations in 2025. Instead, the USDA's NEPA regulations define "effects" to exclude any that are "remote in time, geographically remote, or the product of a lengthy causal chain" or that "would need to be initiated by a third party." 7 C.F.R. § 1b.11(a)(12)(ii)(2025). The USDA's NEPA regulations also provide that the Forest Service is not required by NEPA to "analyze environmental effects from other actions separate in time, or separate in place, or that fall outside of the Agency subcomponent's regulatory authority, or that would have to be initiated by a third party" when drafting an EIS. 7 C.F.R. § 1b.7(g)(3)(2025). To the extent these regulations do not require the analysis of reasonably foreseeable indirect and cumulative effects, they violate NEPA.

The Interim Final Rule also unjustifiably curtails the Agency's obligation to address in writing comments raising substantive issues.

¹⁰⁰ The USDA issued a Final Rule on April 3, 2026, which largely adopted the Interim Final Rule with minor changes. National Environmental Policy Act, 91 Fed. Reg. 17062 (April 3, 2026). However, the DEIS "applies USDA's interim final NEPA regulations of July 3, 2025." DEIS, Vol. I at 1.

¹⁰¹ *See* Comments by the Attorneys General of the States of Washington, California, New York, Arizona, Colorado, Connecticut, Delaware, Illinois, Maine, Maryland, Michigan, Minnesota, New Mexico, Oregon, Vermont, Rhode Island, the District of Columbia, Harris County, Texas, and the Commonwealth of Massachusetts to the USDA's Interim Final Rule, July 3, 2025, submitted alongside this letter.

¹⁰² *See id.*

B. The Agency's Application of its NEPA Regulations is Unlawful for Failing to Consider Indirect and Cumulative Impacts.

The Agency relied on an unlawful definition of “effects” in the USDA’s NEPA regulations in drafting the DEIS. *See* DEIS, Vol. I at 33 (citing to definition at 7 C.F.R. § 1b.11(a)(12)). Apparently due to this reliance, the Agency fails to consider multiple indirect and cumulative impacts of the proposed action, as discussed more fully in Section IV(E), above. The DEIS’s analysis is especially deficient for wholly ignoring climate change impacts even though those impacts were mentioned in the Scoping Comments. *See* Section IV(E)(1).

The Agency’s failure to analyze indirect and cumulative impacts violates NEPA. NEPA’s “primary function is ‘information forcing,’ compelling federal agencies to take a hard and honest look at the environmental consequences of their decisions.” *Am. Rivers v. FERC*, 895 F.3d 32, 49 (D.C. Cir. 2018) (cleaned up). NEPA requires federal agencies to prepare a “detailed statement” on the impacts of certain actions prior to making decisions. 42 U.S.C. § 4332(2)(C). Section 102 of NEPA requires that agencies disclose “any reasonably foreseeable adverse environmental effects which cannot be avoided” if the agency action goes forward. *Id.* § 4332(2)(C)(ii). And NEPA requires agencies to consider the larger context, directing them to “recognize the worldwide and long-range character of environmental problems.” *Id.* § 4332(2)(I). NEPA’s legislative history, too, makes clear that, through NEPA, Congress sought to prevent agencies from making decisions without considering the larger context and incremental impact of projects on the environment. For instance, the Senate expressed concern that “[i]mportant decisions concerning the use and the shape of man’s future environment continue to be made in small but steady increments which perpetuate rather than avoid the recognized mistakes of previous decades.” S. Rep. No. 91-296, at 5 (1969).

Consistent with NEPA’s plain text and purpose, for over forty years the courts and CEQ have interpreted NEPA’s “hard look” requirement to demand consideration of direct, indirect, and cumulative effects. 40 C.F.R. §§ 1508.7, 1508.8, 1508.25(c); *Kleppe*, 427 U.S. at 410; *Hanly v. Kleindienst*, 471 F. interpreted 2d 823, 830–31 (2d Cir. 1972); *Ecology Ctr. v. Castaneda*, 574 F.3d 652, 666 (9th Cir. 2009) (“NEPA requires the Forest Service to perform a cumulative impact analysis in approving projects.”). Identifying and analyzing only direct effects that are close in time and geography to the proposed federal action ignores the true nature of most environmental problems, which Congress recognized as “worldwide and long-range” in character. 42 U.S.C. § 4332(I); *see also* S. Rep. No. 91-296, at 5 (Senate report stating “[i]mportant decisions concerning the use and the shape of man’s future environment continue to be made in small but steady increments which perpetuate rather than avoid the recognized mistakes of previous decades.”). A robust analysis of a project’s environmental effects is critical for informing decision makers and the public, particularly where projects may contribute incrementally to larger environmental or climate harms. Or, as the Second Circuit noted in *Hanly v. Kleindienst*, “[o]ne more factory polluting air and water in an area zoned for industrial use may represent the straw that breaks the back of the environmental camel. Hence the absolute, as

well as comparative, effects of a major federal action must be considered.” *Hanly*, 471 F.2d at 831. In *Seven County Infrastructure Coalition*, the Supreme Court explicitly recognizes that indirect effects such as “run-off into a river that flows many miles from the project and affects fish populations elsewhere, or emissions that travel downwind and predictably pollute other areas” may fall under NEPA. 605 U.S. at 187. The Agency ignores exactly these types of effects in the DEIS, as discussed above.

NEPA requires that an agency assess *all* of the project’s reasonably foreseeable significant impacts. 42 U.S.C. § 4332. Moreover, CEQ itself previously stated that “[p]erhaps the most significant environmental impacts results from the combination of existing stresses on the environment with the individually minor, but cumulatively major, effects of multiple actions over time.”¹⁰³ The Agency cannot rely on its unlawful regulations to evade this fundamental NEPA requirement. The Agency must correct this deficiency by conducting a NEPA compliant analysis of the reasonably foreseeable environmental effects of the Proposed Rule, including its foreseeable indirect and cumulative impacts.

VII. CONCLUSION

Given the serious deficiencies in the Proposed Rule and the DEIS, the Agency should withdraw its current proposal.

///

¹⁰³ CEQ, Exec. Office of the President, *National Environmental Policy Act: A Study of Its Effectiveness After Twenty-five Years* at 29 (Jan. 1997), <https://ceq.doe.gov/docs/ceq-publications/nepa25fn.pdf>.

Sincerely,

FOR THE STATE OF CALIFORNIA

ROB BONTA
Attorney General

/s/ Jennifer Loda

Jennifer Loda
Rafael Hurtado
Mitchell Rische
Deputy Attorneys General
California Department of Justice
1515 Clay Street, 20th Floor
P.O. Box 70550
Oakland, CA 94612-0550
(510) 879-3433
Jennifer.Loda@doj.ca.gov

FOR THE STATE OF WASHINGTON

NICHOLAS W. BROWN
Attorney General

/s/ Caitlin M. Soden

Caitlin M. Soden
Elizabeth Harris
Assistant Attorneys General
800 Fifth Avenue, Suite 2000
Seattle, Washington 98104
(206) 464-7744
caitlin.soden@atg.wa.gov
elizabeth.harris@atg.wa.gov

FOR THE STATE OF OREGON

DAN RAYFIELD
Attorney General

/s/ Coby Howell

Coby Howell
Senior Assistant Attorney General
Diane Lloyd
Assistant Attorney in Charge
Natural Resources Section
Oregon Department of Justice
100 SW Market St.
Portland, OR 97201
(971) 283-8657
(503) 269-8142
Coby.Howell@doj.oregon.gov
diane.lloyd@doj.oregon.gov

FOR THE STATE OF ARIZONA

KRISTIN K. MAYES
Attorney General

/s/ Kirsten Engel

Kristen Engel
Special Assistant Attorney General
Office of the Attorney General
2005 North Central Avenue
Phoenix, AZ 85004-1592
ENVProtect@azag.gov

FOR THE STATE OF CONNECTICUT

WILLIAM TONG
Attorney General

/s/ Scott N. Koschwitz

MATTHEW I. LEVINE
Deputy Associate Attorney General
SCOTT N. KOSCHWITZ
Assistant Attorney General
Connecticut Office of the Attorney General
165 Capitol Avenue
Hartford, Connecticut 06106
(860) 808-5250
scott.koschwitz@ct.gov

FOR THE STATE OF ILLINOIS

KWAME RAOUL
Attorney General

/s/ Jason E. James

Jason E. James
Assistant Attorney General
Matthew J. Dunn
Chief, Environmental Enforcement/
Asbestos Litigation Division
Joanna Brinkman
Complex Litigation Counsel
Illinois Attorney General's Office
201 W. Pointe Drive, Suite 7
Belleville, IL 62226
(217) 843-0322
jason.james@ilag.gov

FOR THE STATE OF MAINE

AARON M. FREY
Attorney General

/s/ Caleb Elwell

Caleb E. Elwell
Assistant Attorney General
Office of the Maine Attorney General
6 State House Station
Augusta, Maine 04333
(207) 626-8545
Caleb.Elwell@Maine.gov

FOR THE STATE OF MARYLAND

ANTHONY G. BROWN
Attorney General

/s/ Steven J. Goldstein
Assistant Attorney General
200 Saint Paul Place, 20th Floor
Baltimore, Maryland 21202
(410) 576-6414
sgoldstein@oag.maryland.gov

**FOR THE COMMONWEALTH
OF MASSACHUSETTS**

ANDREA JOY CAMPBELL
Attorney General

/s/ Jillian M. Riley
Jillian M. Riley
Michele Hunton
Assistant Attorneys General
Environmental Protection Division
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108
(617) 963-2424
jillian.riley@mass.gov
michele.hunton@mass.gov

**FOR THE PEOPLE OF THE STATE OF
MICHIGAN**

DANA NESSEL
Attorney General

/s/ Benjamin C. Houston
BENJAMIN C. HOUSTON
Assistant Attorney General
Environment, Natural Resources, and
Agriculture Division
6th Floor G. Mennen Williams Building
525 W. Ottawa Street
P.O. Box 30755
Lansing, Michigan 48909
(517) 335-7664
HoustonB1@michigan.gov

FOR THE STATE OF MINNESOTA

KEITH ELLISON
Attorney General

/s/ Paul Dimick
Paul A. Dimick
Special Assistant Attorney General
Office of the Minnesota Attorney General
445 Minnesota St., Suite 600
St. Paul, MN 55101
(651) 300-7877
paul.dimick@ag.state.mn.us

FOR THE STATE OF NEW MEXICO

RAÚL TORREZ
Attorney General

/s/ J. Spenser Lotz

J. Spenser Lotz
Assistant Attorney General
Environmental Protection Bureau
201 Third St. NW, Suite 300
Albuquerque, NM 87102
(505) 616-7560
slotz@nmdoj.gov

FOR THE STATE OF NEW YORK

LETITIA JAMES
Attorney General

/s/ Michael J. Myers

Michael J. Myers
Senior Counsel for Air Pollution
and Climate Change Litigation
Environmental Protection Bureau
Office of the Attorney General
The Capitol
Albany, NY 12224
(518) 776-2382
Michael.myers@ag.ny.gov

FOR THE STATE OF NORTH CAROLINA

JEFF JACKSON
Attorney General

/s/ Asher P. Spiller

Asher P. Spiller
Senior Deputy Attorney General
Alexandra Farrell
Assistant Attorney General
North Carolina Department of Justice
P.O. Box 629
Raleigh, NC 27602
(919)-716-6600
aspiller@ncdoj.gov

FOR THE STATE OF RHODE ISLAND

PETER F. NERONHA
Attorney General of the State of Rhode Island

/s/ Patrick J. Dolan

Patrick J. Dolan
Senior Counsel
Rhode Island Office of the Attorney General
150 South Main Street
Providence, RI 02903
(401) 274-4400 ext. 2091
pdolan@riag.ri.gov

FOR THE STATE OF VERMONT

CHARITY R. CLARK

Attorney General

/s/ Melanie Kehne

Melanie Kehne

Assistant Attorney General

Office of the Attorney General

109 State Street

Montpelier, VT 05609-3201

(802) 828-3186

melanie.kehne@vermont.gov

FOR THE STATE OF WISCONSIN

JOSHUA L. KAUL

Attorney General

/s/ Evan D. Steck

Assistant Attorney General

Wisconsin Department of Justice

Post Office Box 7857

Madison, Wisconsin 53707-7857

(608) 267-2228

evan.steck1@wisdoj.gov